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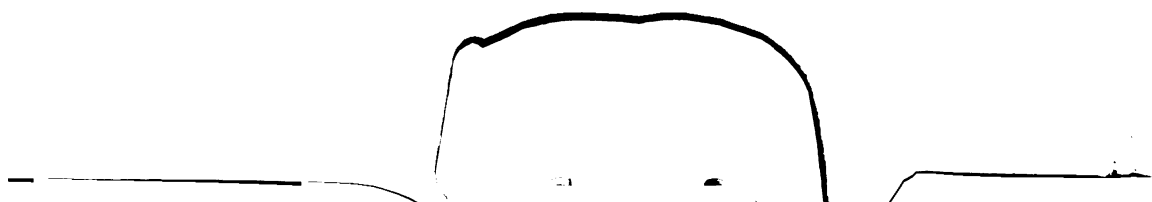
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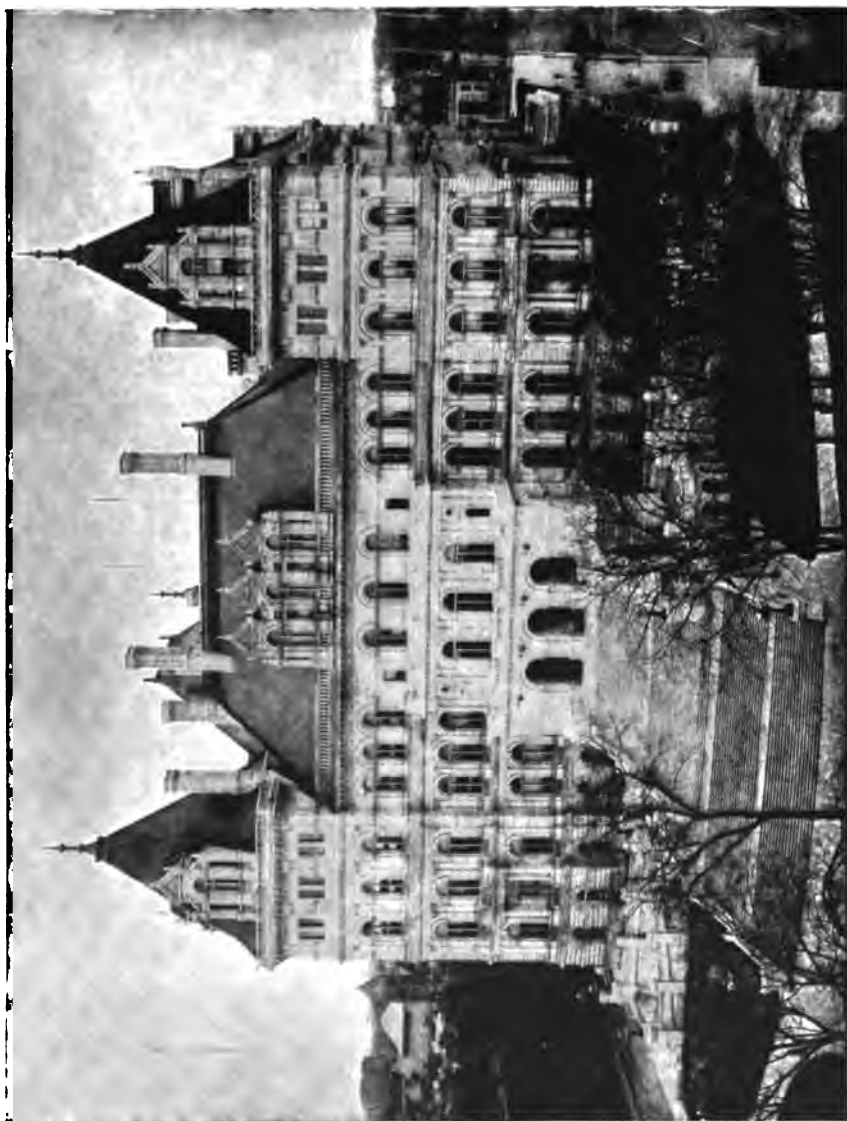
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New Capitol at Albany



### NEW CAPITOL, ALBANY.

Stands at head of State Street; construction commenced 1869; corner stone laid June 24th, 1871; officially declared the Capitol, May 14th, 1878; occupied 1884; completed 1898; cost, including land, \$24,265,082.67.

LEGAL AND JUDICIAL  
HISTORY OF NEW YORK

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VOLUME III

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ALDEN CHESTER  
*EDITOR*

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1911

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## ALBANY COUNTY

As early as 1540 some French fur traders found their way up the river that many years afterward was "discovered" by Hudson, and erected a stone fort or castle on the island in the river, near the present southern boundary of the city of Albany. Here seventy-five years later the castle, which had fallen into decay, was rebuilt as Fort Nassau by Hendrick Corstiaensen, of Amsterdam, who bore a license from the Lords States-General of Holland to traffic in furs with the natives of New Netherland. Here Henry Hudson arrived on the "Half Moon," September 19, (oldstyle) 1609, under contract with the Dutch East India Company on his exploration of the Grande (now Hudson) River. Here the Walloons, under the authority of the Dutch West India Company, which had been incorporated by the Holland government to colonize America, erected Fort Orange in 1624, on the shore of the river, near the site of the present steamboat landing.

None of these early efforts, however, resulted in a permanent settlement. It remained for Kiliaen Van Rensselaer, the first patroon, to become the founder of an enduring settlement here. He it was to whom the Dutch West India Company, under a plan approved by the Lords States-General, granted manorial rights and the permission to establish a colony. While he did not come himself, he sent a few settlers here in 1630. These were followed by others in subsequent years, but he remained at his home in Amsterdam and administered his affairs from there. From

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these small beginnings resulted the permanent settlement and all the grand history and growth that have followed.

The power of the early patroons was analagous to that of the old feudal barons. While they owed sovereign allegiance to the Dutch government, they were empowered to appoint local officers and magistrates, to establish courts, and to administer civil and criminal justice in person or by deputy. They ruled with feudal honors and powers. Their subjects, under the law, were allowed the privilege of an appeal to the director general and council at New Amsterdam in capital cases and in the more important civil cases, but the local authorities were so sensitive over the exercise of this privilege that they required persons settling in Rensselaerwyck to take the oath of allegiance to the patroon in whose name justice was administered, and to promise not to appeal from any judgment of the local tribunals.

The first patroon and those who succeeded him perpetuated the manorial system of land tenures without interruption by changes in government, during our entire colonial history and for more than fifty years after the Declaration of Independence. The government of the patroons, however, was subject to the same vicissitudes and interruptions as were visited upon the Dutch government at New Amsterdam. A change in sovereignty came with the Dutch capitulation to the English, September 24, 1664. The English rule continued from that date until the Revolutionary War, with the exception of about six months prior to the Treaty of Westminster, on February 19, 1674, during which the Dutch were again in control. With the exception of the difference in allegiance, the English rule brought only minor changes at Albany for several years and down to the time of the Dongan



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Charter in 1686, for the settlement was essentially Dutch. The courts here continued to exercise practically the same jurisdiction as formerly, and many of the officers retained their old titles.

The importance of Albany as a center of influence, so far as it has been related to the judicial and legal history of the Colony and State, has always been considerable.

During our entire Provincial history, Albany, next to New York, was the most important place in the colony. Indeed, at the time of the organization of the State government in 1777, the population of Albany county was nearly double that of New York county, but then it must be recalled that Albany county embraced much territory now included in the bounds of other counties.

Albany had attained sufficient prominence in 1754 to attract to it the first Colonial Congress. Here, on June 17th of that year, the commissioners or delegates from Massachusetts's Bay, New Hampshire, Connecticut, Rhode Island, New York, New Jersey, Pennsylvania and Maryland, convened, and under the presidency of Benjamin Franklin agreed upon a Plan of Union between those Colonies and also Virginia, North Carolina and South Carolina, which apparently were not represented. The plan, however, failed for want of approval by the English crown, but it developed a germ that resulted in the Declaration of Independence but twenty-two years later.

An added importance came to Albany by its becoming the permanent seat of the State government in 1789, but, even before that date, three sessions of the legislature had been held here. As the capitol of the State it has been favored by the presence

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of eminent and representative men from every county, many of the most prominent and influential of whom were lawyers occupying various positions in the State government. Here too, since that time, the great courts of last resort have very generally been held, and have been presided over by as able jurists as have ever graced any bench. In writing the local history mention of some of these men must later necessarily be made, for many of the events in which they were concerned were not only of local importance but of general interest.

We should not omit reference to the organization and territorial extent of the county.

Among the acts passed at the first General Assembly of the Province held in New York, was one dated November 1st, 1683, dividing it into twelve counties: New York, Westchester, Ulster, Albany, Dutchess, Orange, Richmond, Kings, Queens, Suffolk, Dukes (now a part of Massachusetts), and Cornwall (now a part of Maine). "The County of Albany," so the act provides, "to containe the Towns of Albany, the collony Renslaerwyck, Schonecteda, and all the villages, neighborhoods, and Christian Plantacons on the east side of Hudson River from Roelof Jansen's Creek and on the west side from Sawyer's Creeke to the Sarraghtoga."

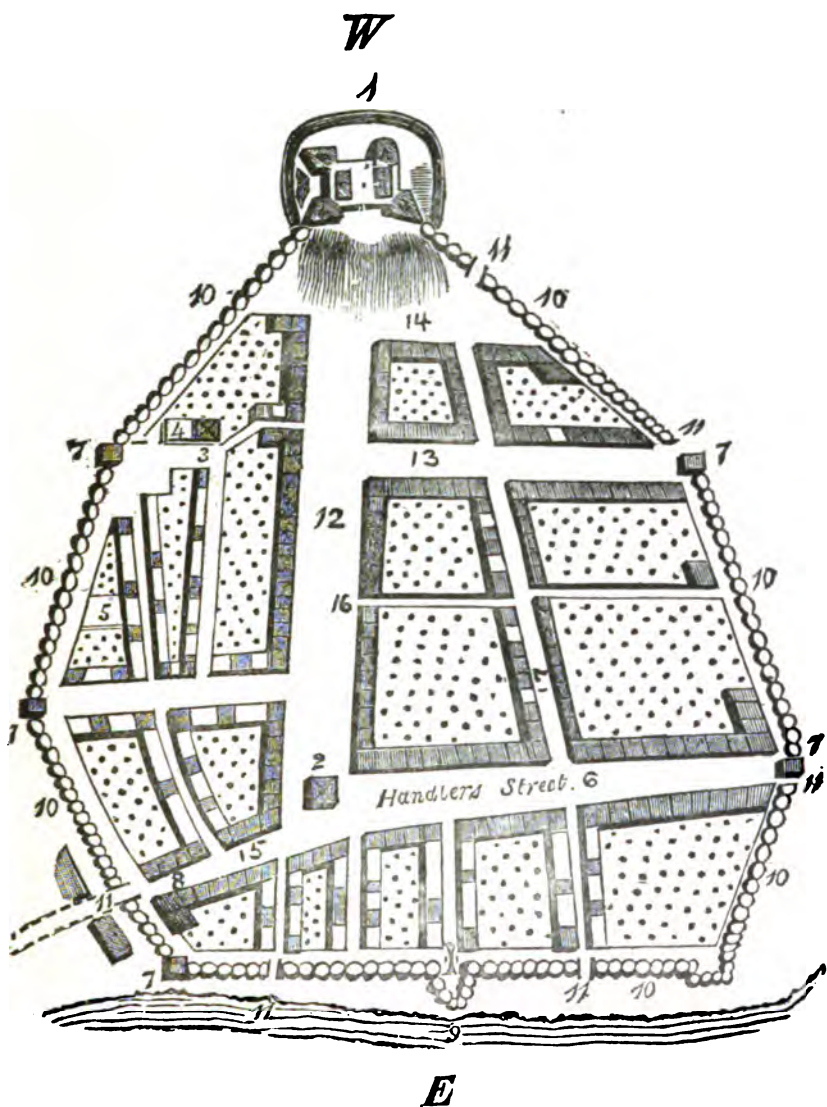
In 1691 the General Assembly amended the description of the county by omitting the town of Albany and by substituting the "Mannor of Renslaerwyck" for the "Collony Renslaerwyck," and inserting "to the uttermost end of Sarraghtoga," in the place of "to the Sarraghtoga." Apparently the General Assembly had no clear idea of the limits of what was known as Sarraghtoga, and it was bound to be on the safe side and take it all in, no matter how far its boundaries extended.

## MAP OF ALBANY, 1695.

(Drawn by Rev. John Miller, Chaplain of British Army).

Showing location of Stadt Huis or City Hall (Court House), line of stockades and city gates. 1. Fort. 2. Dutch Church. 3-4. Lutheran Church and Burial Ground. 5. Burial Ground Dutch Church. 6. Handlaars Street (now Broadway). 7. Block-houses. 8. Stadt Huis or City Hall (Court House), now corner Broadway and Hudson Avenue. 9. Gun at Waterfront. 10. Stockades. 11. City Gates. 12. Yonker's (now State Street). 13. Pearl Street. 14. Barrack (now Chapel Street). 15. Court Street (now Broadway). 16. Middle Lane (now James Street). 17. Rom Street (now Maiden Lane).

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ALBANY MAP OF 1695.

Drawn by Rev. John Miller, British Army Chaplain ; boundaries, Hudson River on east, Steuben st. on north, Fort Frederick at Lodge st. on west, Hudson ave. on south. 1, Fort. 2, Dutch Church. 3, Lutheran Church. 4, Its burial place. 5, Dutch Church burial place. 6, Handlaars st. (Broadway). 7, Blockhouses. 8, Stadt Huis or City Hall. 9, Gun at water front. 10, Stockade. 11, Six city gates. 12, Yonkers (Gentleman's, or State) st. 13, Pearl st. 14, Barrack (Chapel) st. 15, Court st. 16, Middle Lane (James st.). 17, Rom st. (Maiden Lane).



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This comprehensive description as amended, it will be seen, embraced all the territory on the east side of the Hudson River north of Dutchess county, including what is now the State of Vermont, and all that part on the west side north of Ulster county, even to Canada and the Lakes. The county was slightly enlarged in 1717 by annexing thereto that part of the Manor of Livingston lying in Dutchess county.

Albany is indeed the "Mother of Counties," for of the fifty-one in the State erected since, she has given from her territory sufficient to form forty-seven, besides parts of Greene and Delaware. Not only this, she has also given from her territory as first constituted, the entire State of Vermont, a portion of that State having been taken off in 1770 and the remainder in 1786. Tryon and Charlotte counties were taken off in 1772 and changed to Montgomery and Washington in 1784. From these, numerous counties in the western and northern parts of the State have since been formed. Columbia was taken in 1786, Rensselaer and Saratoga in 1791, a part of Schoharie in 1795, a part of Greene in 1800, and Schenectady in 1809. Since the last mentioned year no further drafts have been made upon her territory.

It is only with reference to affairs, within the limits of the county as at present existing, both during the colonial period and since, that we are concerned in this chapter.

The patroon's courts were undoubtedly the earliest organized here. He could preside therein in person or by deputy, and these courts exercised unlimited civil and criminal jurisdiction within the patroon's territory. They were patterned after the systems of local tribunals, which had not only been general but popular in Holland for many years prior to the settlement. These tribu-

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nals there united the two-fold functions of courts of justice and of municipal government. They consisted of a burgomaster, who was a sort of a mayor, and of *schepens*, who resembled aldermen. These were all magistrates. With them were associated a *schout*, whose duties were kindred to those which under our system are performed by district attorneys and sheriffs. From this Dutch system we undoubtedly owed the organization of our mayor's courts, in which the mayor and aldermen sat as magistrates, and which occupied so important a place in our judicial system for many years.

As early as 1632 the patroon provided his colonists, although then few in numbers, with the means of having courts of justice, by the appointment of five *schepens*, and of Rutger Hendriksz as *schout*, none of whom, so far as is known, having been trained to the law, and some of whom evidently could not read, for the patroon sent five printed copies of the "Freedoms of the Patroons and Colonies" to them, with the direction that "those who cannot read shall immediately have the same read to them by others."

The *schout* was the highest and most responsible officer in the manor, and as an outward sign of his dignity he was authorized to wear a silver plated rapier with baldric and a plumed hat. The *schepens* were decorated with black hats having silver bands.

There was little need at that early day for the performance by these first appointees of any judicial functions, and it is doubtful if they ever qualified as magistrates or held court. They were empowered, however, by the patroon from his home in Amsterdam, to administer corrections "according to the customs of this land and especially according to the laws of this province of Holland."

In 1634 Jacob Albertsz Planck was appointed *schout*, and also



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"commis," or trades agent, thus uniting in him the chief judicial and executive functions as well as those of business manager of the manor for the patroon. He came out from Holland, and in his written instructions from the patroon he was directed on his arrival at New Netherland to take the oath as *schout* before Wouter van Twiller, the patroon's nephew, who was then at the head of the government there as Director General for the Dutch West India Company. Under these instructions it was provided that "at the first opportunity he shall choose three *schepens* from among the fittest of my colonists and administer to them the proper oath, so that he can hold court if need be." "For this," the patroon says in a letter to his nephew, "I have given him two books, namely, Damhouwer on Criminal Procedure and the *Ars Notariatus*." Thus was established the first court law library here, and it was one that would hardly be regarded as altogether adequate for the needs of the present day courts sitting in the same locality.

Planck undoubtedly presided over the first court ever held at Fort Orange. He was not particularly successful, even with the aid of his two law books, in the discharge of any of the various duties imposed upon him. He left the colony, and its judicial and administrative affairs were entrusted for about two years to three commissioners, when in 1640 the office of *schout* was again filled by the appointment of Adrian Van der Donk thereto. Of him Kiliaen Van Rensselaer wrote, he "has studied law at Leyden and is desirous of attempting something connected with farming in our colony," and again, "If this young man is of good moral character, it would be a good thing for us." Whether Van Rensselaer was suspicious in that respect because he had studied law, or whether he rightly deemed character an essential qualification for success as a lawyer, was not apparent. It is

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certain, however, that Van der Donk came out to the colony, and that he was the first person, bred to the law, to take up his residence in the manor, although there is no record that he followed the profession except by the use of his learning in the official relations which he bore to the patroon and to the colony.

Van der Donk was succeeded by Nicholas Coorn as *schout* in 1646, the year of the death of the first patroon. Coorn, in turn, was replaced by Brant Van Slichtenhorst, the first director of Rensselaerwyck, in 1648.

Unfortunately no records of the courts held by any of the men named have come down to us, except those held by Van Slichtenhorst. A complete record of the courts presided over by him from the time when he first entered upon his office until April 10, 1652, has been preserved among the Rensselaerwyck manuscripts. At that date came the culmination of the long controversy which had existed between the patroon's government on the one hand and the Director General at New Amsterdam on the other, concerning the limits of the jurisdiction between Fort Orange and the colony of Rensselaerwyck, for on that day Pieter Stuyvesant, the Director General, issued his proclamation establishing a court of justice for Beverwyck (Fort Orange) and its dependencies independent of the patroon's court of Rensselaerwyck and appointing three justices thereto. All this is familiar history and need not be mentioned more in detail.

The village of Beverwyck was by the proclamation made independent of the colony of Rensselaerwyck, an independence which Stuyvesant was prepared to maintain by force of arms if necessary. Van Slichtenhorst, who had stubbornly resisted the Director General, was taken under arrest to New Amsterdam and his reign brought to a close. It appears that he was succeeded as *schout* by Gerret Swardt in July, 1652.

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The patroon's court continued to exist in his colony outside of Beverwyck, but with a greatly lessened importance, until the English conquest, when it was consolidated with that at Beverwyck, then Albany:

The litigations therein during Van Slichtenhorst's time were mostly of small moment, and consisted largely of prosecutions for assaults, slanders, and other misdemeanors. They are well illustrated by a single quotation from a biographical sketch by the State archivist, Mr. A. J. F. Van Lear, in the "Van Rensselaer-Bowier Manuscripts," of one Teunis Dircksz Van Vechten, who had a half interest in the colony's brewery:

"In Feb. 1651, he was prosecuted for calling Director Van Slichtenhorst, in the presence of many people, *een ouwde graeuwe dief en schelm* (an old gray thief and a rascal); for calling Domine Megapolensis an informer and threatening to stab him with a knife; for selling his wheat at £11 a muddle, contrary to the orders of the patroon; for ordering Willem Menten four times during the night of Sep. 18, 1648, to fire off a musket in the brewery, thereby causing Monsr. Labate and some soldiers of the fort to cross the river, for calling Teunis Cornelisz a thief and a rascal and striking him on the head; for having leased the six morgens of his, Teunis Dircksz, farm which the authorities of the colony had reserved; for fighting with Pieter Hartgers and Abraham Staats; and for letting two horses stand in front of Jan Verbeeck's house, in severely cold weather, without cover or food."

The courts other than the patroon's court have been given attention in their appropriate places elsewhere and need not be further considered here.

Ever since the erection of the county, Albany has been the county seat, as it was the chief place in the colony, since the first permanent settlement, by whatever names it was known. It is a matter worthy of note that the courts here, during the greater part of our history, have been held in buildings not legally denom-

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inated as court houses. The patroon's courts before Stuyvesant's proclamation of independence were undoubtedly held at the manor house, the residence of the director of the colony, or at that of one of the *gerechts personen* (members of the court).

We have been favored with a description of the building within Fort Orange where the courts sat after the proclamation referred to. In Dr. O'Callaghan's "History of New Netherland" it is said :

"The Vice Directors' house at this period (1654) was an old building within the fort twenty-six feet, nine inches long, Rhineland measure; two stories high, constructed of boards one inch thick, with a roof in the form of a pavilion, covered with old shingles. Under this house was a cellar as long as the house was broad. The first floor was divided into two compartments. At the north end was a chamber, sixteen or seventeen feet broad, at the south end an entry ten feet wide. The space on the second floor was one undivided room, directly under the roof, without a chimney, to which access was had by a straight ladder, through a trap door. Here the magistrates administered justice. This was the first court house of the present City of Albany."

No account is given of the cost of the structure nor of the bonded indebtedness, if any, which was laid upon the public for its construction, and the name of the architect who designed it has been lost to fame. It certainly was not a very costly or pretentious edifice, but it was probably adequate for the needs of the primitive community during the time it was in use for court purposes.

So far as is known, the next building used as a court house was the one known as the *Stadt Huys*, or City Hall, at the northeast corner of Court street (Broadway) and Hudson avenue, just inside the stockade. The date of its erection is not definitely known, but there is a record of the Willemstadt court holding its sessions there in November, 1673, during the brief resumption

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of the Dutch rule. The site of this building at that place is also shown on a map of Albany made in 1695.

In 1703 the General Assembly granted authority to the justices of the peace for the city and county of Albany to raise not exceeding four hundred pounds "for the repairing or building of a Sufficient Gaole City and County Hall and other things needful for the Administracon of Justice in the said City and County." That amount having been found to be insufficient "to compleat the matters aforesaid," authority was given by the General Assembly in 1705 to raise one hundred pounds additional "for ye repairing or rebuilding of a Common Gaol & City & County Hall."

The fact that the Act of 1703 gave authority for repairing or building, and that the amending act of 1705 gave authority for repairing or *rebuilding*, shows very clearly that the moneys were to be expended in repairing or rebuilding the old structure on the old site.

The building as thus changed must have become inadequate for the uses to which it was put as early as 1737, for on May 2nd of that year the common council sent a letter to the representatives in the General Assembly at New York requesting the passage of a bill authorizing the erection of a "Court House and Gaol which is absolutely necessary for justice cannot be duly executed for want thereof." In September, 1738, another letter to the same effect was sent, in which the common council refers to the necessity for having a "bill past" for having a new "City Hall built for sd city and county." These requests, it appears were effective, for on November 3d, 1740, a bill was passed in which it was recited that "The present Gaol & Court House" was "not Sufficient for holding of Courts or Securing of Prisoners" and granting authority because it was "absolutely necessary" to build a

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"New Court House & Gaol" which should be "more Commodious & secure, on the Same Place where the old one Stands." Permission was given to raise one thousand and two pounds for that purpose. That amount having been found insufficient, by an act passed in 1743 the supervisors of the county were authorized to raise four hundred pounds additional "to compleat the said Court House & Gaol."

The new building was one destined to become famous in history. It not only served the locality for a city hall, a court house, a county building and a jail, but in it was held the first Congress of the Colonies in 1754, which was presided over by Benjamin Franklin. From its steps the Declaration of Independence was read to the Continental troops and a great multitude of citizens on July 19, 1776. It also became the temporary capitol of the State, and several sessions of the legislature were held therein before the completion of the capitol at the head of State street in 1808.

The building was a substantial one of brick, three stories high, with a basement built of stone. It was surmounted by a cupola containing an alarm bell, and upon the cupola was a large gilded ball and weather vane. In the lower story was located the jail, where many executions for capital offenses took place. In the street adjoining it, stood the public stocks and whipping post for many years. It was destroyed by fire April 30, 1836, having been sold to private parties long before that date.

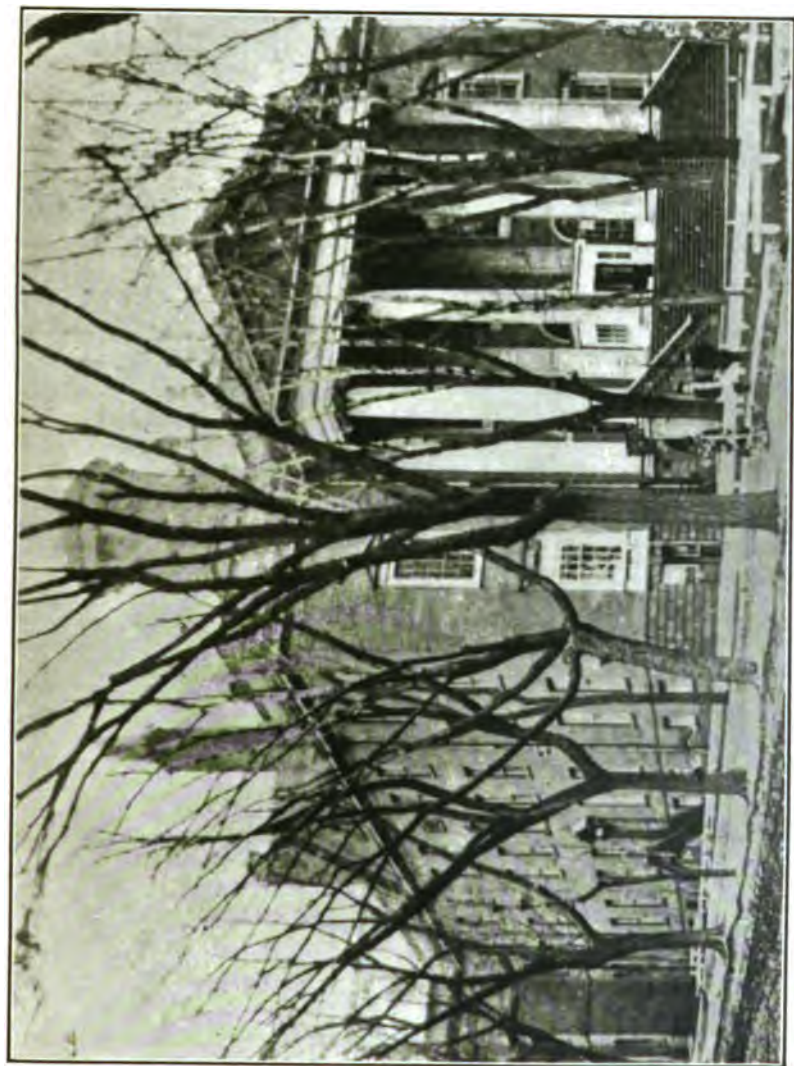
The next building used as a court house was what has come to be known as the Old Capitol. This was erected on lands donated by the city in the public square on Eagle street, at the head of State street, at the joint expense of the State, the city and the county, the State contributing \$73,485.42, the county \$3,000, and the city \$34,200, besides the land. Of the last amount, \$17,000

### OLD CAPITOL.

Was located at head of State Street, facing Eagle Street, and in front of the present New Capitol; completed and occupied first in 1808. Erected at the joint expense of the city, the county and the State, costing, exclusive of the land on which it was given by the city, \$110,085.42, part of which was the proceeds of a lottery. Taken down in 1883.







**The Old Capitol at Albany**



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were the proceeds of the sale of the old city hall at Broadway and Hudson avenue. At this date the people will not take much pride in the fact that a considerable amount of the cost came from the proceeds of lotteries. The building was completed in 1808, and was first occupied in November of that year. It stood for seventy-five years, and was in 1883 removed to make place for the development of the park fronting the new capitol.

The building was ninety feet front by one hundred and fifteen feet deep, and was substantially built of stone, handsomely faced with brown freestone from quarries on the Hudson below the Highlands. It consisted of two stories and an attic, besides a basement story of ten feet, the outer walls being fifty feet high. On the east front was a portico of the Ionic order, the ceiling of which was supported by a double row of reeded columns, three feet eight inches in diameter and thirty-three feet high. The approach to the entrance to the principal floor was fifteen stone steps forty-eight feet in length. The building was roofed with a double hip of pyramidal form, upon the center of which was a cupola twenty feet in diameter having a dome supported by eight Ionic columns and surmounted by a statue of Themis eleven feet in height, facing the east, holding a sword in her right hand and a balance in her left.

By some papers accompanying a message of the governor to the legislature in 1819, it appears that all the rooms on the first floor were then occupied by the State except the north-east corner, which was used as a common council chamber by the city. The rooms on the second story were occupied by the court of chancery, supreme court, common pleas, general sessions and mayor's court, except the one immediately above the lobby of the assembly chamber which was used two or three times a year by the supervisors of the county. The basement was occupied in

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the southeast corner by the county clerk, and in the northeast corner by the keeper of the capitol.

Ten years thereafter, in 1829, the growth of the State had been such as to require more of the capitol for its uses; the joint use of the building had not been altogether convenient for the officers of the State, the city of the county; and steps were taken to dissolve the partnership existing with respect thereto. In that year the legislature passed a law authorizing the payment of \$17,500 for the release to the State of all interest of the city and county in the building and grounds, upon the agreement that the unoccupied part should be kept perpetually for a public park. The city and county accepted the proposition, the city purchased from St. Peter's Church the lot on the east side of Eagle street, between Maiden Lane and Pine street, and took the initial steps for the erection of a city hall for the joint use of the city and county thereon.

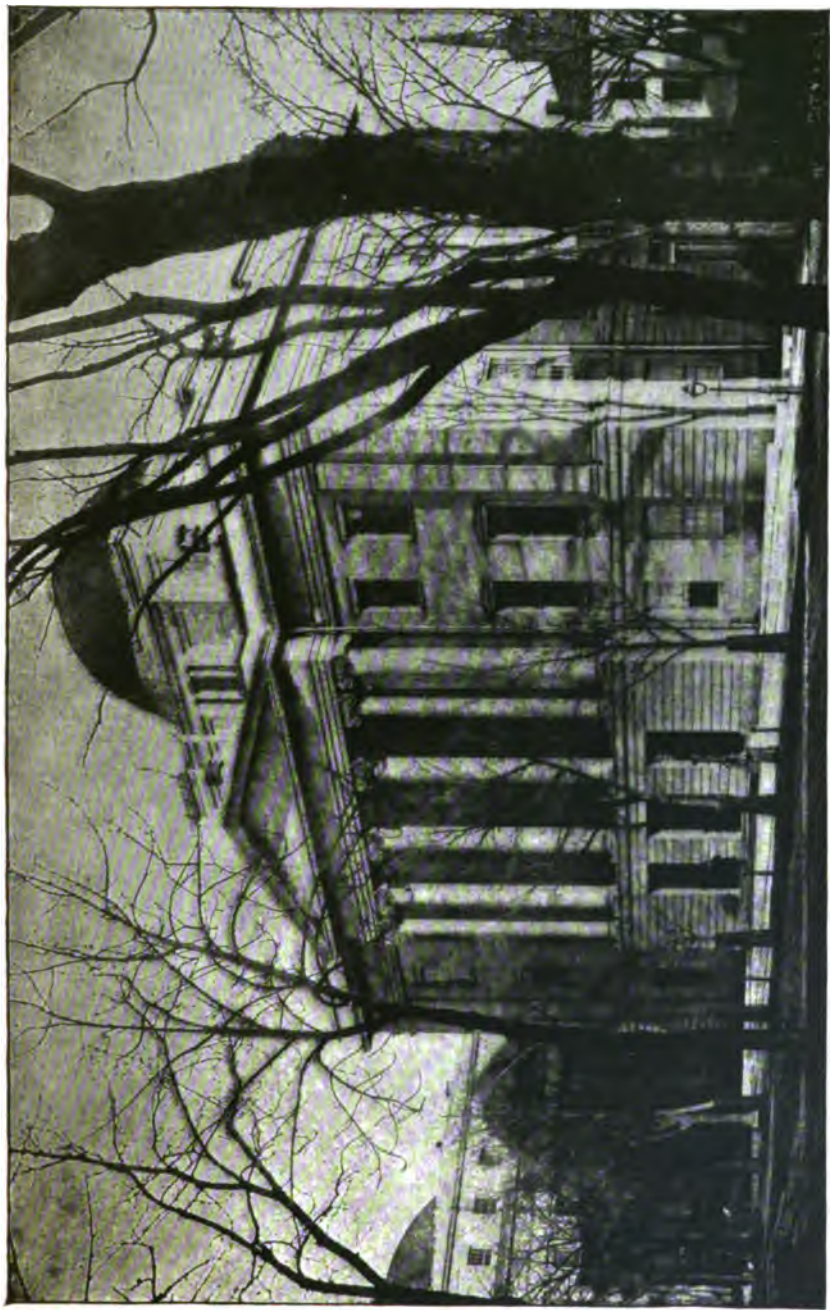
The city hall was completed in 1832 on that site at a cost to the city and county of \$92,000, and the old capitol was vacated by the city and county officers and by the courts of first instance. It was three stories in height, and built of white marble. Although plain, it was a dignified and classic structure. Over its entrance on Eagle street were six Doric columns supporting an entablature and pedament above. Its roof was surmounted by a large gilded dome. The court room for the use of the circuit and county courts was on the south side of the large hall on the second floor. The mayor's court, so long as it continued, and afterwards the recorder's court, had rooms on the third floor. The building was destroyed by fire, supposedly of incendiary origin, on the morning of February 10th, 1880. Many valuable papers were destroyed, but the most important records were saved.

The present city hall was erected in 1881-1883 on the site of

ALBANY CITY HALL (COURT HOUSE) OF 1832.

Located on Eagle Street; corner stone laid August 31, 1829;  
completed 1832; destroyed by fire February 10, 1880.





### OLD CITY HALL.

Cornerstone laid with great ceremony August 31, 1829. Cost, \$92,336.91. First meeting of Common Council therein July 25, 1832. Destroyed by fire the morning of February 10, 1880.





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the one burned. During the time of its construction the circuit court and the United States courts were held in the assembly chamber of the old capitol. Judge Westbrook, who was holding a term of the circuit court in the city hall at the time of the fire, also held the first term of that court in the new city hall on May 8, 1883, after it was completed. It was erected under the supervision of a commission consisting of the mayor, the chairman of the board of supervisors, and six prominent citizens, at a cost including the furnishings, of \$325,000. It is built of reddish brown granite and trimmed with brown stone. Standing as it does on the opposite side of the public square from the immense pile constituting the new capitol, its architect, the late H. H. Richardson, had to give it bold treatment if it was not to be completely dwarfed by that great edifice. He has given it a free treatment of what may be properly termed the Richardson Romanesque, with an imposing tower on its south-western corner, 202 feet high, standing out in dignity and strength, and giving the whole building an altogether graceful and pleasing appearance. It has on its second floor one of the best arranged court-rooms in the State, which at present is used for holding the trial and special terms of the supreme court and the terms of the county court. It also has a separate special term room which was formerly used by the old general term of the supreme court, and a well selected court law library, besides convenient supreme court chambers occupied by one of the justices of the supreme court residing in the county. There is also a well appointed court room for the use of the recorder's court on the third floor. The rest of the building is used for various county and city offices.

For many years the police and justices' courts were held in rooms over the old Center Market, on South Pearl street, at the

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corner of Howard street, but since the completion of the city building on the same site in 1869, these courts, and the city court, as the successor of the old justices' court, have been held there.

In 1895 the county purchased the Albany Savings Bank Building at the north-west corner of State and Chapel streets, and designated it the County Building. It is a substantial granite structure three stories high. Its entire top floor is occupied by the appellate division of the supreme court of the third department of the State, with its court room, library, consultation and justices' rooms, the lawyers' room, and the offices of its clerk and official force. Before the changes in the building requisite to its use by the appellate division were completed, that court, from its organization on January 1, 1896, pursuant to the Constitution of 1894, sat in temporary quarters provided for it in the city hall. The building is also occupied by the chambers of one of the justices of the supreme court residing in Albany, by the chambers of the county judge, by the surrogate's court, and by the district attorney's and sheriff's offices.

The United States circuit and district courts are held in Albany in court rooms provided for them in the Government Building on Broadway, at the corner of State street. This was erected of cut granite, three stories in height, in Italian Renaissance, with towers at each corner. It was built by the general government for a United States custom house, court house, post office and internal revenue office. The corner stone was laid in 1879 and the building was completed in 1884 at a cost of upwards of \$600,000. Before it was built the United States courts usually sat in the city hall.

The old court for the correction of errors was held in the senate chamber of the old capitol.

The court of appeals created by the Constitution of 1846, and

## STATE HALL. ALBANY.

On Eagle Street, erected 1835-42, to relieve crowded condition of old Capitol; plans now (1910) being made to adapt the building to the uses of the Court of Appeals.





### STATE HALL.

The intent of this building of admirable classic design was to relieve crowded condition of the (old) capitol of 1808-1883. Facing on Eagle st. for 138 ft., its north and south walls run back 88 ft. on Steuben and Pine sts. Started in 1835, white stone from Sing Sing ; used in part in 1840; completed in 1842; cost, \$350,000.



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the reorganized court of 1870, had rooms assigned to it in the old capitol, and, after that was taken down, in the new capitol. A bill was passed by the legislature in 1909 making an appropriation to ascertain the cost of making the necessary changes in the State Hall on the east side of Eagle street to adapt that building to the uses of that court, its business having become so great as to require better facilities for its transaction than is afforded in the rooms assigned to the court in the new capitol. It is probable, therefore, that that court will soon be housed in a dignified and convenient court house assigned exclusively to its use.

Mention has been made of the jail in the basement of the *Stadt Huys*, or city hall, on Broadway, at the corner of Hudson avenue.<sup>1</sup> In this review we should not omit a brief reference to those which have succeeded it.

The next in order was a jail erected on the east side of Eagle street between State street and Maiden Lane, which was first occupied about 1804. That was replaced by a jail erected on the site of the old Albany Hospital, now the Humane Society's Building, at the corner of Eagle and Howard streets which was completed in 1834.

This was occupied until 1852, when the prisoners were removed to a jail erected on the north side of Maiden Lane, in the rear of the city hall. This, during many years, was connected with the city hall by a bridge known as the "Bridge of Sighs," leading from the second story of the jail to the rooms on the second floor of the city hall, adjacent to the court rooms of the

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1. It is probable that a new jail was erected in the vicinity of the court house to take the place of that in its basement, for in 1788 an Act was passed for building a jail and repairing the court house, and providing the manner of raising funds therefor, (Laws 1788, Chap. 69), and in 1792 an Act was passed directing the sheriff to remove the prisoners "from the old gaol to the new gaol," lately erected, before the first day of March, next. (Laws 1792, chap. 7.) Just where this "new gaol" was located is uncertain.

## *LEGAL AND JUDICIAL*

supreme and county courts, and over this bridge prisoners were taken to and from these courts. The Maiden Lane jail was in use until September 1st, 1904, when it was abandoned, and the prisoners removed to the penitentiary on Delaware avenue. Soon thereafter it was torn down.

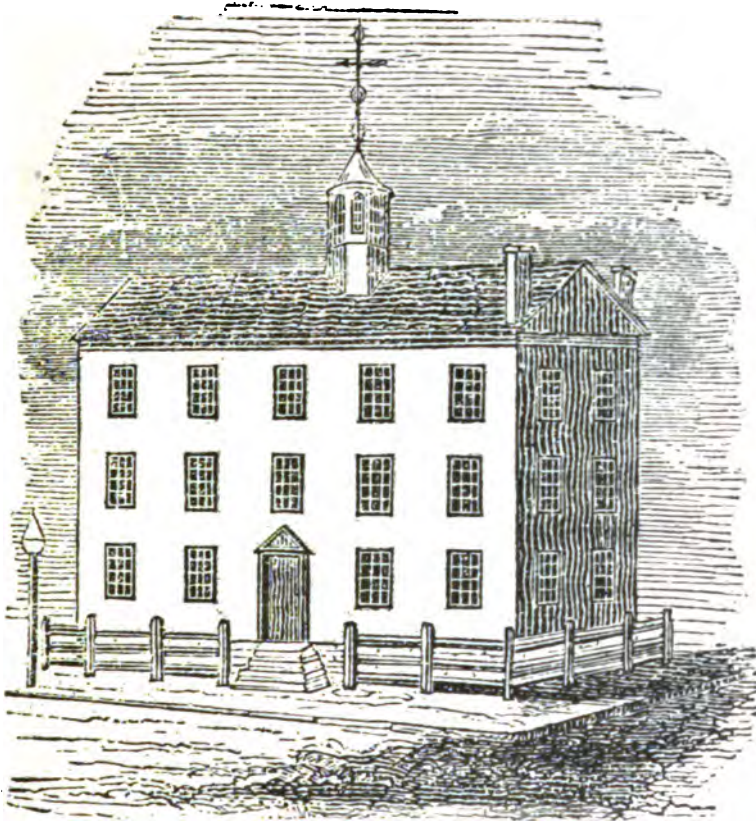
The Albany penitentiary, which is now used as the county jail, was first opened as a prison in 1846, it having been constructed largely by the labor of prisoners who were marched from the jail and back daily for that purpose. Originally it had but ninety cells, but it was enlarged from time to time until it had 625. It is located in a park of about fifteen acres on the west-erly side of Delaware avenue and south of Morris street. For many years it was a source of large revenue to the county arising from the profits on the board of prisoners sent from other counties and by the United States courts in the District of Columbia and in various southern States under contracts with such counties and with the United States for the care of their convicts and from contractors to whom the labor of the prisoners were hired at remunerative wages. Since the abolishment of the contract labor system in the penitentiaries and prisons of the State, and the passage of laws compelling the sending of long term convicts to State prisons rather than to penitentiaries, the penitentiary has ceased to be self-supporting, and many cells were left unoccupied. It was deemed to be good economy and to afford much better and more sanitary conveniences for the care of prisoners than they had ever had in any of its jails, to utilize some of these unoccupied cells as a county jail. Since they have been in use, the prisoners have been transported from the police stations and the police court to the jail in the penitentiary and to and from the courts for trial, in a prison van.



## NEW COURT HOUSE AND GAOL, ALBANY.

Erected on site of old Stadt Huis, corner of Hudson Avenue and Broadway 1740; First Congress of the Colonies, presided over by Benjamin Franklin, held in it 1754; from its steps Declaration of Independence read July 19, 1776; temporary Capitol of State in which several sessions of Legislature prior to 1808 were held. Destroyed by fire April 30, 1836.





CITY HALL OF 1740.

Erected on site of old Stadt Huis of Nov., 1673, at n. e. cor. Broadway and Hudson ave., Oct. 29, 1740; law amended Apr. 29, 1743, to provide \$2,000 to complete. First Colonial Congress met here in June 19, 1754; vacated Nov. 1, 1808, and offices moved into Capitol just completed at head of State st. Destroyed by fire Apr. 30, 1836.



## HISTORY OF NEW YORK

No adequate mention can be made in a work of this character of the many remarkable and interesting trials that have taken place in Albany. The field is so large that it is difficult to select from the great volume of material at hand those cases which for one reason or another should not be overlooked. These are to be found in the records of both the civil and the criminal courts, and in those of all the courts from the lowest to the highest.

It is interesting to note, before referring to specific cases, that it was not for twenty years after the Declaration of Independence that we had become sufficiently divorced from the methods of punishing criminals, then prevalent in the mother country, to abolish the whipping post and capital punishment for felonies, except in cases of murder and treason. This radical change was brought about by an Act (Chap. 30) passed by the legislature of 1796. In the preamble to that act it was recited as a reason for the change in the criminal law of the State, that "the dictates of humanity and the principles of justice" require it. Blackstone admits that in his time not less than one hundred and sixty crimes were by the English law punishable with death, and here also, many felonies were punishable in the same manner.

Before the reform brought about by the Act of 1796, the city maintained a public whipping post adjacent to the old *Stadt Huys*, and gaol, and public "hangings" were frequent.

By the city records of 1737 it appears that the city agreed with John Bell to be "common whipper" for the city for the term of one year, for the sum of twelve pounds, to be paid in two payments, and in addition, three shillings for every person, white or black, he shall whip, with the understanding that, when a slave is whipped, his master, mistress or owner shall pay the charge. The city records show that this agreement was renewed from time to time with Bell, and that he was still in office in 1745, when

## LEGAL AND JUDICIAL

he was engaged for another year, and his compensation increased to fourteen pounds per annum.

It is not known how long he continued to serve, but the office did not remain without an incumbent, for on October 8th, 1759, the common council agreed with John Wilson to be "Public Whipper" for six months from date for the sum of ten pounds "corrant money of New York," and "Ordered that the Clerk let John Wilson have one shirt, one pair shoes, one pair stockings and one pair Breches on his wages." It has been said that a certain governor elect of the State had to borrow enough money from his grocer to enable him to pay his way to the capitol to be inaugurated. Here is an instance where a much less distinguished public servant had to be supplied with sufficient clothing to enable him to enter upon the discharge of the duties of his office. As no coat was directed to be given to him, it is presumed that he possessed such a garment, or, what is more probable, that he discharged the arduous duties of his office in his shirt sleeves.

A reference to the proceedings of a few terms of court will be sufficient to show that the office of "public whipper" was not altogether a sinecure, and will also emphasize the difference in the punishments then inflicted for crimes and those now imposed.

At the July court of sessions held at the city hall in 1722, a negro woman called "Nan," belonging to Abraham Kip, was convicted of burning the stable of Johanis Wendell. The judgment imposing the penalty is as follows:

"It having been adjudged that the negro woman, called 'Nan', is guilty of the crime charged against her: she shall, therefore, within the space of ten days, be whipped behind a cart on the naked back, twenty lashes, round this city at the places following:—Before the City Hall; at the corner of the house of Jacob Yetts, Jun.; at the corner of the house of Johs Ten Broeck; before the gate of John Wendell, and before the gate of Anthony Van Schaack, double the lashes; then at the corner of the house

## HISTORY OF NEW YORK

of Stephanis Groesbeck; at the corner of the house of Jan Jans Bleecker; at the corner of the house of Johs Bleeker, Jun; at the corner of the house of Philip Livingston; at the corner of the house of John Manse; at the corner of the house of the widow of John Dircks; at the corner of the house of Jacob Lansing; at the corner of the house of Johs. Dangler; at the corner of the house of Anna Mary Carnissie; at the Great Bridge, and then at the City Hall, five lashes; After that to be imprisoned for the space of one year, unless her master will enter into bond and sufficient security to export her out of this province, and pay the charge of her imprisonment."

Whether there were no more houses in the city with sufficiently prominent occupants to be "entertained" by this inhuman spectacle, or whether it was supposed that the back of the poor negress would not hold out for further lashings about town, is not stated in the judgment.

At the April term of the supreme court in 1785, Petrus and Christian Cooper were convicted of robbery, and Christian Loucks of horse stealing, and each was sentenced to death. They were hung on June 8th, and each died protesting his innocence.

At the term of the supreme court which closed its session on July 5, 1786, Caleb Gardner was convicted of passing counterfeit Spanish dollars and sentenced to death. Two weeks afterwards the sheriff announced that the persons then under sentence of death would be hanged on Friday, the 14th of September, and advertised asking any person who was willing to undertake the execution to apply to him.

It is stated in Munsell's "Annals of Albany" (vol. 2, p. 209) that "At the July, 1789, term of the supreme court held at Albany, Elisha Smeeds, of Pittstown, in the county of Albany, indicted for the murder of Ezekiel Mitchell, and convicted of manslaughter, was adjudged to receive thirty-nine lashes at the public whipping post, and be imprisoned for three calendar months. Six others, convicted of stealing were condemned to

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receive thirty-nine lashes each; while about the same time Francis Uss, convicted of breaking open and robbing a store in Poughkeepsie was publicly hanged."

The following convictions took place at the court of oyer and terminer which adjourned November 7, 1795; Anthony Crane, petit larceny; Elizabeth Crane, his wife, grand larceny; Joseph Brown, petit larceny; Flora, a negro girl, grand larceny; Sam and Jack, negroes, for receiving stolen goods knowing them to be such; and each of them, except Elizabeth Crane, received thirty-nine lashes on the same day and was discharged.<sup>2</sup>

The whip for punishing evil doers was often a cat-o'-nine-tails, from the superstitious notion that a flogging by a "trinity of trinities" of lashes, as the mystical number nine was regarded, would be more sacred and more efficacious than by other means. But what peculiar efficacy or what special corrective influence thirty-nine lashes on the back of an offender had, rather than some other number, is not apparent at this time.

Fourteen persons were convicted for various offences and sentenced at the September, 1797, term of the court of oyer and terminer. This was the year after the whipping post and capital punishment for the lesser felonies had been abolished. To show the severity of the penalties still inflicted, it is essential to mention only four of these persons. Isaac Robbins was convicted of passing a false receipt for money; Simon Brant of passing two counterfeit quarter dollars; John Garrit of burglary; and Jacob, a negro slave, of burglary, and each of them was sentenced to imprisonment for life at hard labor. They were all in great good luck, however, for if they had been convicted a year earlier they might have been hung.

A case connected with the great conflagration of 1793, and

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2. Munsell's "Annals of Albany," vol. 3, p. 175.



## HISTORY OF NEW YORK

having an interesting story connected with it, may be mentioned next. The fire broke out on Sunday evening November 17th, 1793, at about 10 o'clock. It started in a stable belonging to Leonard Gansevoort, in the rear of his dwelling house, which was on the lot now numbered 53 State street. The flames spread rapidly, and in a short time all the buildings on the block bounded by State street, Market street (now Broadway), Maiden Lane and Middle Lane (now James street) were consumed. Included in those burned were twenty-six dwelling houses, several of the largest stores in the city, and the *Gazette* printing office. This block was then in the heart of the business and residential part of the city. The fire was clearly of incendiary origin. Suspicion at once rested upon several slaves, who were arrested and confined in the jail. As the crime of arson was then punishable with death, much excitement followed these arrests. Among those arrested charged with the crime, were two young wenches, one named Bet, who was a slave belonging to Philip S. Van Rensselaer, afterwards mayor of the city. She was a handsome young girl about sixteen or seventeen years old, and a great favorite with Mrs. Van Rensselaer. The other, named Dinah, was a slave of about the same age, and belonged to Volkert Douw. Prior to the fire they had been looked upon as giddy and thoughtless, but not wicked, young girls. When the alarm of fire was given, Mrs. Van Rensselaer thought of Bet, but on going to her room, found she was missing. She remained away from home all the next day, and when found by her mistress was in jail. There she confessed to Mrs. Van Rensselaer the crime she had committed, and told her that she had set the fire by carrying hot coals in her shoe from the kitchen of Mr. Gansevoort's house and throwing them on the hay in his stable. Dinah also acknowledged her guilt, but both girls asserted that they had been induced by

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a negro named Pomp to commit the crime. On this he also was arrested. They were all three tried at the January, 1794, term of the supreme court, found guilty, and all sentenced to be hung on the 24th of that month. On that day there was a great concourse of people out to witness the execution, but, as it was chronicled, "the culprits were respited and allowed six weeks grace, to the great injustice of so large an audience."<sup>3</sup> There is a tradition, not supported by proof, that back of this crime was a young man from Schenectady, named Sanders, who had been courting the only daughter of Leonard Gansevoort, and had either been jilted by her, or told by her father that his visits were not welcome. He was a young man of a proud spirit. When that was crushed, it excited in him feelings of revenge. He had a close friend in the city by the name of McBurney, who was a jeweler. The story goes that McBurney, at the request of Sanders, procured Pomp, by the offer of a massive gold watch, to set fire to the Gansevoort stable. Pomp, as it appeared, lacked the courage to set the fire, but was able to induce Bet and Dinah, over whom he had almost complete control, to do it instead. A short time before the day fixed for their execution, the jailer overheard a conversation between the two girls in which they exonerated Pomp from all blame. The next morning after this was heard they told the jailer that Pomp was innocent, and that they alone were guilty. The two girls were executed on March 14, 1794, on Pinkster Hill, which was a few rods west of where the Albany Boys' Academy now stands, and near the corner of Hawk and Lafayette streets.

Strenuous efforts were made to save Pomp from the gallows. It was claimed that after he had concluded the negotiations with the girls to set the fire, he became alarmed at the

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3. Munsell's "Annals," vol. 3, p. 161.

## *HISTORY OF NEW YORK*

probable consequence of his acts, and endeavored to persuade them not to commit the crime. Judge Robert Yates and his daughter, John Van Ness Yates, Mrs. Major Fairley, and other prominent citizens, among whom Pomp was a great favorite, brought the matter to the attention of Governor George Clinton, and he granted a temporary respite. Unknown to his friends, Pomp was thereafter put through what in modern times has come to be known in jail parlance as "the third degree," and confessed his connection with the crime. He also stated what was already known as to the origin of the fire. Besides this, he admitted that he had been guilty of robbing the mails, which was a crime then punishable with death. These revelations were communicated to Governor Clinton, and no further respite was given. Pomp therefore suffered the extreme penalty of the law on April 11, 1794, at the same place where the girls had been hung nearly a month before.

As there was no evidence against Sanders and McBurney except the mere assertions of Pomp, whose testimony could not then be taken as he was implicated in the crime, neither of them was arrested.

The next case to be noticed arose out of what has come to be known as the "Battle in State Street," which occurred on April 21st, 1807. It was a famous combat between an eminent citizen, John Taylor, who had been first judge of the court of common pleas of Albany, and was afterwards lieutenant governor and acting governor of the State, and a distinguished general, Solomon Van Rensselaer, afterwards prominent as an officer in the war of 1812, adjutant general of the State, member of congress and postmaster. It grew out of the political antagonisms of the two great political parties of that day, Judge Taylor being a leader of the Republicans, and General Van Rensselaer

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of the Federalists. It involved not only these two, but a number of other prominent citizens. The Republicans had held a meeting at which pungent and incendiary resolutions against the Federalists had been adopted. Elisha Jenkins was secretary of the meeting. These were published in the newspapers and circulated in handbills. This so aroused General Van Rensselaer that, on meeting Jenkins walking down State street, he struck him down with his cane. On the afternoon of the same day, Judge Taylor, who was then a man of sixty-five, met the general, then in his prime, on the same street, and rebuked him for the unprovoked assault on Jenkins. The two immediately squared off for a fight. The struggle took place nearly in front of Taylor's house. His son-in-law, Charles D. Cooper, came to his rescue and attempted to separate the combatants. His daughter, Mrs. Cooper, also entered the melee for the same purpose. Francis Bloodgood, another relative, approached General Van Rensselaer from behind and struck him with a cane, seriously wounding him.

Worth, in his "Recollections of Albany," (p. 78) says with reference to the struggle:—

"It was a perilous, hand to hand encounter, that brought together at least one-half of the male population of the town, not as spectators merely, but as combatants, who, like the knights of old, entered the lists with an alacrity and a spirit that would have done honor to the heroes of chivalry, when chivalry was in its prime and knighthood in its glory. The full breadth of State street from Pearl down to the intersection of Court and Market (now Broadway) was literally filled with the combatants; while the doors, porches, windows, and even the house-tops on both sides, were crowded with astonished and terrified spectators. The street, viewed from any elevated position, resembled a tumultuous sea of heads, over which clattered a forest of canes, the vast body now surging this way, now that, as the tide of combat ebbed and flowed."

Several suits for assault and battery resulted from the strug-

ALBANY CITY HALL (PRESENT COURT HOUSE).

Erected on site of Old City Hall, 1881-3, H. H. Richardson,  
architect: cost \$325,000; tower 202 feet high.





CITY HALL OF 1881.

H. H. Richardson, of Boston, Architect. Cornerstone laid by Masonic fraternity on October 13, 1881; cost, \$325,000; tower 202 feet.





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gle. These were all brought in the supreme court, but were by agreement finally submitted for determination to a board of arbitrators consisting of Simeon DeWitt, James Kane and John Van Schaick, all prominent citizens. The counsel for the respective parties were all eminent lawyers, and consisted of Abraham Van Vechten, Elisha Williams and John Woodworth for General Van Rensselaer, and Thomas R. Gold, Ebenezer Foote and John Champlin for Jenkins, Taylor, Cooper and Bloodgood.

The arbitrators, after receiving the evidence and listening to able arguments by counsel for the respective parties, made the following awards against the defendants with costs in each case: Jenkins against Van Rensselaer, \$2500; Van Rensselaer against Taylor, \$300; Van Rensselaer against Cooper, \$500; Van Rensselaer against Bloodgood, \$3700.

So that General Van Rensselaer, although he committed the first assault on Jenkins, received an award against those who assailed him for that act sufficient to pay the award against him in the suit brought by Jenkins, and had \$400 left to aid him in paying the fees of his counsel.

A case of not much importance as a law suit, but having some curious features, was the famous "hog case" tried before Justice John O. Cole in the justice's court.

It appears that hogs had been allowed the freedom of the city since the organization of the city government. This was not a custom peculiar to Albany, for it prevailed to quite an extent in New England. "Hog reeves" were appointed in many towns there to look after swine running at large in the streets. It was a familiar joke to select a newly married man to this position, and even the Concord philosopher, Ralph Waldo Emer-

## LEGAL AND JUDICIAL

son, when he was first married, was appointed to that office.<sup>4</sup>

In 1830 the well known author and journalist, Nathaniel P. Willis, visited Troy, and while seated in an upper room of his hotel there, wrote that he had a "glimpse of Albany, looking so well in the distance that you half forgive it for its hogs, offal, broken pavements, and the score of other nuisances more Dutch than decent."

The excitement incident to the publication of such a criticism from such a source, led to a struggle in the common council, which lasted for many months, for the passage of an ordinance to restrain the running of hogs at large in the streets. The city fathers were very evenly divided on the propriety of this law. It was laid on the table from time to time, and the debate was long and earnest.

Mr. James Mahar was opposed to the law. He said that hogs were the best scavengers for removing garbage, which if left in the streets or yards would produce sickness.

Mr. James D. Wasson said that if two or three hogs were shut up together in the hot season they would be a much greater nuisance than if they ran at large.

Dr. Barent P. Staats argued that the pork fattened by the garbage in the streets was unwholesome, and it would be beneficial to the public if they were restrained for that if for no other reason.

Mr. George M. Stevens observed that it was strange how doctors disagreed. Certain New York physicians, he said, in 1823 gave their opinion that hogs were the best scavengers, and stated that their running at large was eminently beneficial to the health of the city. If they were of advantage in other cities,

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4. Earl's "Home Life in Colonial Days," p. 403.

## HISTORY OF NEW YORK

they must be so here. Their free running was an old Dutch privilege, and we must be careful how we infringe it.

Besides Dr. Staats, the ordinance was favored by such well known aldermen as Erastus Corning, afterwards president of the New York Central railroad, Elisha W. Skinner, Solomon Van Rensselaer, H. W. Wynkoop and others, and by Recorder McGown, and it was finally passed.<sup>5</sup> It imposed a penalty of two dollars upon the owner of every hog running at large, and provided for their being impounded in the public pound. It remained a dead letter, however, for some time, as public sentiment appeared to be against its enforcement.

One John Baker was eventually selected to take to the pound all hogs found in the streets, and to see that the ordinance was enforced. His zeal in the performance of his duties was such that until the day of his death he was commonly known as "Pig Baker." Through his efforts he caused a suit to be brought in the justices' court in the name of The Chamberlain of the city against James Blackall, to recover the sum of six dollars penalty for permitting three of his hogs to run at large in the streets. It was tried before Justice Cole and a jury. The counsel for the prosecution was David Hosford, and for the defendant Calvin Pepper, the most eminent lawyers in the city then practicing at the bar of the justices' court. Their arguments for their respective clients followed to a considerable extent the debate in the common council by the friends and the opponents of the ordinance at the time of its passage. John Baker came in for his full share of criticism from the defendant's counsel. He also attacked the constitutionality of the law with great force, and pictured the hardships it imposed upon the owners of swine. He said its purpose was the abatement of nuisances, but in fact it promoted in-

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5. Munsell's "Annals," vol. 9, pp. 245, 247.

## LEGAL AND JUDICIAL

finitely greater nuisances by compelling owners to confine their hogs in narrow pens near their own dwellings and those of their neighbors, while it left garbage, which these animals had been accustomed to consume, to putrify in houses or in the public streets. The counsel for the complainant contended that, if the law was distasteful to the public, they should petition for its repeal, and he repelled with great indignation the insinuations against Mr. Baker, the efficient, vigilant and faithful agent of the corporation, that improper motives actuated him in the discharge of his official duties.

Justice Cole submitted the case to the jury without any charge or expression of opinion, and the jury promptly returned a verdict for the defendant.

Thus the law which had cost so much of effort to enact, was completely overridden by public sentiment as reflected by this verdict; the "vested rights" of the hogs to have the freedom of the city had been vindicated; and a custom which was more "Dutch than decent" prevailed for yet awhile.

A comparatively recent case tried in the Albany county court in November, 1898, excited great interest throughout the country because it involved an attack upon the legitimacy of the children of the late Jay Gould, by his wife Helen Miller Gould.

The case was an indictment of one Margaret E. Cody for the crime of blackmail in sending a letter to George J. Gould, the eldest son of Jay Gould, in which it was stated that she was the person who had unearthed the woman who was supposed to be his father's first wife, and whose daughter, a Mrs. Pierce, resides in Wyoming. It was stated in the indictment that the defendant intended by the letter to charge that, before his marriage to Helen Miller Gould, Jay Gould had been, and at the time of such marriage was, married to another woman who was his lawful

HAMILTON HARRIS.

(1820-1900).

Eminent Lawyer: Member of Assembly, 1851: District Attorney Albany County, 1854-57: President Board of Capital Commissioners, 1866-75: Senator, 1875-79: Regent of the University, 1885-1900.

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**Hamilton Harris**





## HISTORY OF NEW YORK

wife and had borne him a child—the Mrs. Pierce above named, —and that the letter was sent with the intent to extort money from said George J. Gould and his brothers and sisters. The defendant said in the letter that Mrs. Pierce had “five lawyers engaged to set your father’s will aside. \* \* \* Without me they can do nothing. If you desire to see me, and I assure you it is in my power to stop this whole affair, I am at present in Albany and I shall meet you in New York, or wherever you name.”

On the trial, John T. Cook, district attorney, Delancy Nicholl and John D. Lindsay, appeared for the people, and Newton B. Vanderzee and P. C. Dugan appeared for the defendant. The trial resulted in a disagreement of the jury. Subsequently the case was again tried at the March, 1899, term of the county court, Judge Gregory again presiding. Zeb A. Dyer, the then district attorney, and Peter A. Delaney and John E. MacLean, assistant district attorneys, appeared for the people. The defendant was again represented by the same counsel. The trial resulted in a conviction, with a recommendation from the jury of mercy. By consent of the district attorney, after the defendant had been confined for a long time in the county jail, and because of her advanced age, she being about seventy at the time, she was allowed to go upon a suspension of her sentence. It was clearly shown upon the last trial by the testimony of Mrs. Mary Angell, formerly Mary Brown, who the defendant had claimed was the woman who married Jay Gould in 1855, and who was the mother of Mrs. Pierce, that she never in fact had married him and never knew him, and that Mrs. Pierce was her daughter by her first husband, a Frenchman by the name of De Russe. It was also shown that the church record in the Catholic church of Coopersville, Clinton county, which was relied on as showing a mar-

## LEGAL AND JUDICIAL

riage between Mary J. Brown and Jay Gould under date of the 23d day of February, 1855, was an altered and forged record.

For a county as old and with a population as large and cosmopolitan as that of Albany, the number of trials in cases of homicide has been comparatively small. Only a few of the more prominent ones will be mentioned.

The trial of Jesse Strang for the murder of John Whipple in 1827 was one that excited much interest. It was presided over by Judge William A. Duer, one of the circuit judges of the third circuit. It is interesting at this date to note that there were appointed to sit with him to constitute the court of oyer and terminer, James Stevenson, mayor of the city, James McGown, recorder of the city, Richard S. Treat, one of the judges of the court of common pleas of the county, and Welcome Esleeck, one of the aldermen of the city. The court convened in the supreme court room in the capitol on July 25, 1827, and the trial was completed in two days. The counsel for the people were Edward Livingston, district attorney, and Samuel A. Foot, former district attorney, and for the prisoner Calvin Pepper and Thomas J. Oakley. The crime was committed on the evening of May 7, 1827, at the residence of Catharine Van Rensselaer, widow of Philip P. Van Rensselaer, then recently deceased. This was located at Cherry Hill, near South Pearl street, about a mile south of State street. Strang was a farm laborer who worked on the Van Rensselaer farm. Whipple, who was a canal contractor, and his wife, also lived with the Van Rensselaer family. The motive for the crime was the infatuation of Strang for Mrs. Whipple, who was also indicted as being implicated in the crime. The jury in the case of Strang deliberated over their verdict only about fifteen minutes and found him guilty. The story of the crime is told in detail in the inscription on the tomb-

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stone which was erected by his brother, Barnum Whipple, at the grave of the deceased in the Episcopal burying ground in Albany. Because of its unusual character it is here given in full:

The Tomb  
of  
John Whipple  
who was murdered  
at Cherry Hill, May 7, 1827.

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John Whipple was born  
at Sunderland, Vermont,  
August 11, 1793,  
His father, Ezra Whipple,  
was an officer in the  
Revolutionary War.  
He was shot by Jessie Strang,  
about 9 o'clock in the evening  
thro' the back window of his apartment,  
where he sat at a table writing,  
Unconscious and guiltless  
of provocation or offense.  
The ball passed thro' his body  
and he lived only to exclaim,  
Oh! Lord,  
and expired  
in the 34th year of his age.  
The murderer  
confessed he had meditated the deed  
for six months.  
He suffered the punishment of the law  
August 24, 1827.

The trial of Mrs. Whipple began July 30th, at the same term of court, and lasted until August 3rd. She was defended by Abraham Van Vechten, Elisha Williams and Azor Tabor. The jury rendered a verdict of acquittal without leaving their seats, although it was said that it was universally believed that she was concerned in the murder.<sup>6</sup>

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6. Munsell's "Annals," vol. 9, p. 158.

## LEGAL AND JUDICIAL

The next day (August 4), Judge Duer<sup>7</sup> sentenced Strang to be hung on August 24. On the day fixed he was executed in the Hudson street ravine, which was then fifty feet deep and three hundred feet wide. The gallows was located a few rods west of Eagle street, and the execution was witnessed by a dense throng of spectators who crowded the hills on either side, and who were estimated to number between thirty and forty thousand.

Reuben Dunbar was tried at the November, 1850, court of oyer and terminer, before Justice William B. Wright and a jury, on an indictment charging him with the murder of two small boys, Stephen V. and David Lester, eight and ten years old respectively, in the town of Westerlo, the youngest having been killed with a club and the oldest by hanging to a tree. The motive for the crime was that Dunbar regarded the boys as standing in the way of his inheriting some property. The counsel for the people were S. H. Hammond, district attorney, and Rufus W. Peckham, senior. Henry G. Wheaton, William J. Hadley and O. H. Chittenden represented the prisoner. The trial lasted two weeks. The evidence was circumstantial, but a conviction of murder in the first degree was had. He was sentenced to be hanged on January 31st, 1851. There was no appeal, and he was executed on that date. He was a young man of about twenty years of age, and had been married only about three weeks prior to the murder. He maintained his innocence all through the trial, but before his execution he confessed his guilt.

John Hendrickson, Jr., was tried at the Albany oyer and terminer in June and July, 1853, for the murder of his wife, Maria

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7. Judge Duer was the grandson and biographer of Lord Sterling, and claimed his title. After several years service on the bench he removed to New York City, where he was appointed president of Columbia College, and served as such from 1830 to 1842. He died May 31, 1858.

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(Van Dusen), by poisoning with aconite, at the town of Bethlehem. The trial occupied three weeks. Justice Richard P. Marvin, of Jamestown, Chatauqua county, presided. The district attorney was Andrew J. Colvin, and he was assisted by Levi S. Chatfield, attorney general. The prisoner was defended by Wheaton & Hadley. A conviction of murder in the first degree was had, which was affirmed in the court of appeals, and the defendant was executed May 5, 1854, in the jail on Maiden Lane. The case was argued in the court of appeals for the people by Hamilton Harris, who had succeeded to the office of district attorney and for the defendant by John K. Porter (10 N. Y., 13.)

The case of Mary Hartung had some peculiar and interesting features, especially with reference to her escape from punishment after having been convicted of murder in the first degree. She was indicted as principal with her paramour, William Reimann, as an accessory, charged with having murdered her husband, Emil Hartung, by poisoning him with arsenic. He died April 21, 1858. After his body had been buried four weeks it was disinterred. Upon a chemical analysis of his stomach and liver being made, enough arsenic was found to have killed several persons. About the time of this examination, when Mrs. Hartung learned that some suspicions rested upon her, she and Reimann left the city and stayed together at various hotels in different places. In July following she was found living under an assumed name at Guttenburgh, a small place in New Jersey, arrested, and brought back to Albany. Her trial was commenced at the Albany oyer and terminer, presided over by Justice Ira Harris, on January 31, 1859. She was convicted by the jury after being out forty-eight hours, and sentenced to be hung on the 27th day of April, following. Samuel G. Courtney, district attorney, and Lyman Tremain, attorney general, appeared for the

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people, and William J. Hadley and Andrew J. Colvin for the defendant. A writ of error was granted and the execution stayed, but the judgment of conviction was affirmed by the general term of the supreme court. (4 Parker's Criminal Cases, 319). The proposed infliction of the death penalty upon a woman by hanging agitated the community to a great degree. Petitions were circulated and very generally signed by our citizens, praying for a commutation of the sentence. A bill was even introduced in the assembly to commute the sentence to ten years imprisonment. This was not passed, but another bill, which it is understood was prepared by Mr. Hadley, was enacted before the case reached the court of appeals. This act (Laws 1860, Chap. 410) was curiously enough, if not cunningly, entitled "*An act in relation to capital punishment, and to provide for the more certain punishment of the crime of murder.*" Under it, murder in the first degree was defined, and the jury were authorized to find any person accused of that crime guilty of murder in the second degree. It also provided that persons sentenced to death should be at the same time sentenced to confinement at hard labor in State prison until such punishment of death should be inflicted, and that no person should be executed within a year after the sentence of death. By the act the provisions of the Revised Statutes which prescribed hanging by the neck as the mode of inflicting the death penalty, were repealed, but no other method of execution was substituted. The little "joker" in the law, so far as it applied to Mrs. Hartung's case, was contained in the provision which required that "all persons now under sentence of death in this State, or convicted of murder and awaiting sentence, shall be punished as if convicted of murder in the first degree under this act." The case was decided in the court of appeals in September, 1860 (Hartung vs.

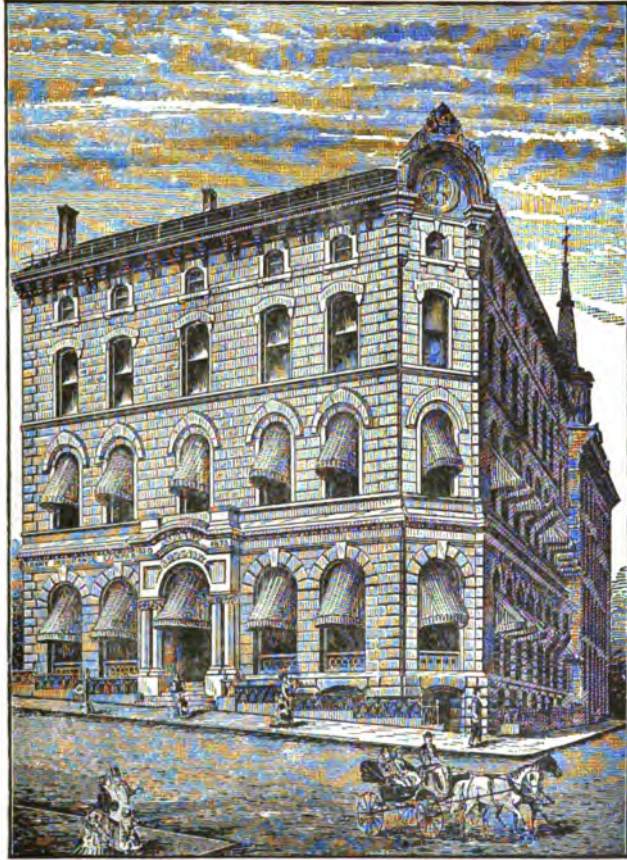
ALBANY COUNTY BUILDING (APPELLATE DIVISION  
COURT ROOM).

On State Street, corner of Chapel. Purchased by the county in 1895 from the Albany Savings Bank, and adapted for the use of Appellate Division of the Supreme Court, Third Department, for the Chambers of one of the Justices of the Supreme Court, and of the County Judge, and for the Surrogate's Court and some of the County offices.

1. The first of these is the fact that the  $\mathbb{Z}/2$ -action on  $X$  is not free. This means that there are points in  $X$  which are fixed by the action of  $\mathbb{Z}/2$ . These points are the points of the fixed set  $X^{\mathbb{Z}/2}$ .

2. The second of these is the fact that the  $\mathbb{Z}/2$ -action on  $X$  is not trivial. This means that there are points in  $X$  which are not fixed by the action of  $\mathbb{Z}/2$ . These points are the points of the orbit space  $X/\mathbb{Z}/2$ .





ALBANY COUNTY BUILDING.

It was erected by the Albany Savings Bank, which entered it May 11, 1875; county bought it in 1898, and commenced alterations when the bank removed to its new edifice on No. Pearl st., Apr. 25, 1899.



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The People, 22 N. Y., 95). That court determined all the exceptions against the defendant, but nevertheless reversed the judgment of conviction and *ordered a new trial*. The reversal was put upon the ground that the legislature having repealed the provision of the Revised Statutes which prescribed hanging by the neck as the mode of inflicting the death penalty, there was no longer any statutory method provided for inflicting capital punishment, and hence the punishment by hanging, imposed upon the defendant, was unauthorized; and also upon the ground that the section of the act of 1860 which prescribed that death should be imposed as the punishment for murder in the first degree, preceded by at least a year's confinement at hard labor in State prison, upon offenders already under sentence of death, was an *ex post facto* law, unconstitutional and void, inasmuch as it imposed a severer punishment than was attached to the crime when it was committed. The case came again before the Albany oyer and terminer, and Justice Deodatus Wright, then presiding, directed a judgment discharging the prisoner. A writ of error was then allowed on behalf of the people, and the general term reversed the judgment of the oyer and terminer (23 How. Pr. 314), being influenced in some degree by the fact that the legislature had in the meantime, by the passage of Chapter 303 of the Laws of 1861, revived and made operative all the laws repealed by the act of 1860. The prisoner then carried the case to the court of appeals, where the judgment of the general term was reversed and that of the oyer and terminer affirmed, and the prisoner directed to be discharged, the court stating that the awarding of a *new trial* when the case was there before had been improvidently made. (Hartung v. The People, 26 N. Y., 167). Mrs. Hartung had been imprisoned five years, during the

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litigation, before being set at liberty by the final judgment of the court of appeals.

The history of this remarkable case and its outcome did no violence to the oft quoted saying, "Let no guilty *man* escape," for the defendant, although she had been convicted upon a trial where there were no legal exceptions on her behalf, was only a *woman*.

The paramour, Reimann, who was first indicted as an accessory, was afterwards indicted as a principal. After the conviction of Mrs. Hartung his trial came on before Justice George Gould. Ira Shaffer, then district attorney, conducted the prosecution, assisted by Samuel G. Courtney, former district attorney. Hamilton Harris defended the prisoner. Mrs. Hartung was a handsome and attractive woman, with whom Reimann was passionately in love. It was contended by counsel for the people that he aided Mrs. Hartung in poisoning her husband, to permit him to marry her. On the trial, after the people rested, Mr. Harris made a motion for the discharge of the defendant on the ground that the evidence was insufficient to convict him. The motion, after an elaborate argument by counsel on both sides and a critical review of the evidence by the presiding justice, was granted, and Reimann discharged.

The next case to be noticed, that of the People against George W. Cole, was remarkable not so much because of any difficult question involved as because of the prominence of the parties concerned, and of the eminence of the counsel employed. The defendant was indicted for murder in the first degree for killing L. Harris Hiscock, by shooting with a pistol, on the evening of the 4th day of June, 1868. The shooting took place in the public reception room of Stanwix Hall, a prominent hotel in Albany. Hiscock was leaning against a pillar, smoking a cigar

RUFUS KING.

(1755-1827).

Lawyer, Statesman and Diplomat; Member Continental Congress from Massachusetts, 1784-85-86; Delegate from Massachusetts to United States Constitutional Convention of 1787; removed to New York, 1788; Member of Assembly, 1789; United States Senator, 1790-96; Minister to England, 1796-1803; again United States Senator, 1813-25.

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**Rufus King**





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and talking with two gentlemen. There were thirty or forty persons in the room. The defendant approached him, spoke not a word, elevated his right hand clasping a pistol, and fired close to the face of his victim, the ball entering about half an inch from the right eye and piercing the brain. Hiscock threw up his hands, fell to the floor, and expired almost instantly. A bystander asked, "What was this for?" Cole replied, "He violated my wife while I was at the war; the evidence is clear, I have the proof."

Cole was then forty-one years of age. He had been educated as a physician, and practiced his profession for a time. In 1851 he married Mary Barto. In 1857 they removed to Syracuse, where he engaged in business. When the Civil War broke out he enlisted as a private in the 12th New York Volunteer Infantry, but having raised a full company for that regiment he was commissioned as captain. He was transferred to another branch of the service and rose through various grades to the rank of a major general of volunteers. He remained in the service after the war until 1866, when he was mustered out and returned home. It was claimed on the trial that the knowledge of his wife's guilt had come to him but two days before the homicide, and that he saw Hiscock for the first time after that when he fired the fatal shot into his brain. The only evidence on the trial of his wife's unfaithfulness was contained in her written confession to him, and that was received to show its effect on his mind.

L. Harris Hiscock was a leading lawyer of Syracuse, had been the counsel for Mrs. Cole in some matters, and at the time of his death was a member of the Constitutional Convention then in session in Albany.

The case was twice tried, the first time at an Albany oyer

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and terminer presided over by Mr. Justice Daniel P. Ingraham, of New York. The trial commenced on April 28 and ended May 7, 1868. The defense was insanity. The People were represented by Henry Smith, district attorney, Lyman Tremain, former attorney general, and Charles B. Sedgwick, of Syracuse. The prisoner was defended by former justice of the supreme court, Amasa J. Parker, William J. Hadley, of Albany, William A. Beach, of Troy, James T. Brady,<sup>8</sup> of New York, and David J. Mitchel, of Syracuse. The jury, after being out a long time, failed to agree, and were discharged.

The second trial came on at a term presided over by Mr. Justice Henry Hogeboom, and commenced November 12, 1868. The same counsel appeared as on the former trial. The case was submitted to the jury on Friday, December 5, and a verdict was not agreed upon until Monday the 8th. They were brought into court at about 11 o'clock that morning, and had not yet reached a verdict. The foreman submitted the following question to Judge Hogeboom: "If the jury believe that the prisoner was sane just before the homicide, and also just after, and the jury are unable to decide whether he was sane or insane at the instant of the homicide, should such a doubt go to the benefit of the prisoner or not?" Judge Hogeboom replied that "the jury must be satisfied beyond a reasonable doubt as to the condition of the mind of the prisoner at the time of the commission of the homicide. If they entertained a reasonable doubt, founded on the evidence, then the prisoner was entitled to the benefit of the doubt." The foreman consulted with two "dissenters" on the jury, and then announced that the jury had agreed, and a verdict of "not guilty" was announced. General Cole survived the last

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8. This was the last important case which this eminent lawyer assisted in trying.

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trial a little more than nine years, and died at Mara, New Mexico, December 11, 1875.

Only one other trial for homicide, out of a considerable number that might properly be mentioned, will be briefly referred to.

On the 4th day of March, 1879, William J. Hadley, who had conducted the defense of Mrs. Hartung, had assisted in the defense of General Cole, and had defended many others charged with murder, was himself the victim of an assassin's knife in the hands of John C. Hughes, one of his clients. Hughes was indicted for murder in the first degree. His trial was presided over by Mr. Justice Theodric R. Westbrook, and took place in the assembly chamber of the old capitol in March, 1880, while the city hall was being rebuilt after its destruction by fire in the prior February. The prosecution was conducted by Lansing Hotaling, district attorney, assisted by Hamilton Ward, attorney general. The counsel for the prisoner were John B. O'Malley, Eugene Burlingame and John W. McNamara. The crime was committed about noon at Mr. Hadley's law offices on the second floor front of Nos. 62 and 64 State street. Hughes went there and was having some dispute with Hadley as to when the latter would pay over some money which he had collected from the estate of Hughes' deceased wife, from whom he had been separated before her death. Some words ensued, and Hadley ordered Hughes to leave the office, and said "I have nothing more to say to you." Hughes replied, "I have something more to say to you," and pulled out a concealed butcher knife and stabbed Hadley twice. He lingered until April 19th, when he died from his wounds. Hughes had been a hard drinker, and had been imprisoned several times for minor offenses. The defense was insanity. The jury found the prisoner guilty of murder in the

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second degree, and he was sentenced to the State prison at Dannemora for life. That Hughes was sane at the time of the trial, was not devoid of feeling, and possessed a sense of humor that would have done credit to Mark Twain, is evidenced by his remarks when asked if he had anything to say why the judgment of the law should not be pronounced. He arose and said: "If your honor please, I am aware of the fact that by the verdict of the jury my destiny is settled, but I still think that the verdict might have been otherwise. Perhaps if I were a Cole or a Stokes, it might have been different. That an able defense has been made in my behalf I am frank to admit. My counsel have done all that it was possible for them to do. They have left no stone unturned in regard to my welfare. I think the constitution is somewhat bitter in arraying the whole force against me on this occasion. Why it is not done on all other occasions is a mystery to me. I think the attorney general somewhat overstepped the bounds in summing up. I am aware that I am going to spend the remainder of my life in prison, and I think if they had their just deserts, half the lawyers would be there justly. I have no animus towards your honor, or to any of mankind. Perhaps no man on earth regrets the death of Mr. Hadley more than I do. Whatever he might have been to me more than to the rest of mankind, he in all probability was a kind father and indulgent husband. I hope and trust his soul may rest in peace, and if I have been instrumental in causing his death, I pray God may forgive me. I wish to return my thanks to the public of Albany for their kind demeanor towards me, and to the public press generally for their fair treatment of me. And now, forasmuch as this hall has previously been used for parliamentary and legislative purposes, I move the previous question. I am ready for my sentence. That is all I have to say."

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Albany has been generous in contributing its lawyers to the bench of the higher courts in the State. Brief reference should be made to each of them.

Richard Yates, of Albany, was appointed chief justice October 28th, 1790, to succeed Richard Morris, who in turn had succeeded John Jay, the first chief justice of the State. Judge Yates had been on the bench as an associate justice for upwards of thirteen years before being elevated to the chief place, during which time he served with Alexander Hamilton and John Lansing, Jr., as delegates from New York to the convention of 1787 which framed the Constitution of the United States. He was one of the ablest lawyers and one of the most influential men of his time.

When Chief Justice Yates was compelled to retire from the bench on reaching the age limit of sixty years, he was, on February 15, 1798, succeeded by one of his former law students, and for eight years one of his associates on the bench, John Lansing Jr., as chief justice. Lansing retired from that office, however, after less than three years' service to accept that of chancellor, to which he was appointed October 21, 1801. The inevitable age limit required him to give way to James Kent in 1814. He lived many years after that, in remarkable vigor of body and mind.<sup>9</sup>

Still another chief justice and another chancellor may be claimed as an Albanian, although his fame belongs to no locality, but to mankind. James Kent, then of New York, was appointed an associate justice of the supreme court, February 6, 1798. There were then five justices of the court, including the chief jus-

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9. On the evening of December 12, 1829, while in New York on business, stopping at the City Hotel, he went out to send an important letter to Albany by a steamer which was to leave that night, and was never seen afterwards. It was generally believed that he was drowned, although his body was never discovered. He was then 76 years of age.

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tice, who went on the circuit, and who also sat *in banc* in Albany, Utica and New York. The next year he removed to Albany in order, as he said, "not to be too much from home." He had been married at twenty-one to a "charming and lovely girl", Elizabeth Bailey, who was, as he says, the "idol and solace" of his life. This undoubtedly accounts for his not desiring to be too much from home, and also for the fact that he resided here when he was appointed chief justice July 2d, 1804, and chancellor October 25th, 1814. He continued to reside in Albany until after he retired from the latter office, on reaching the age limit in 1823.

Still two other chief justices are to be credited to the capitol city—Ambrose Spencer and Greene C. Bronson. The former removed to Albany from Hudson soon after he was appointed attorney general in 1802, and the latter from Utica soon after being appointed to the same office in 1829. Spencer resided here when he was appointed to the bench of the supreme court in 1804, and also when he was promoted to the chief justiceship in 1819. After he retired from the bench he was mayor of Albany for two terms, and also member of congress from that county. Bronson had been a gifted and successful practitioner at the Albany bar for several years before he was appointed a justice of the supreme court in January, 1836, and here he resided during his entire career on the bench. When Samuel Nelson was appointed associate justice of the supreme court at Washington, Bronson, on March 5, 1845, succeeded him as chief justice of New York, and was the last but one to fill that office before it was abolished by the Constitution of 1846.

Amasa J. Parker, distinguished both as a lawyer and on the bench, was appointed a circuit judge in 1844, and was elected a justice of the supreme court in 1847. Before that he had been a member of assembly and of Congress, and also regent of the

AMASA J. PARKER.

(1807-1890).

Lawyer and Jurist; Surrogate Delaware County, 1832-34; Member of Assembly from Delaware County, 1834; District Attorney Delaware County, 1833-36; Member of Congress, 1837-39; Regent of the University, 1835-44; Circuit Judge, 1844-47; removed to Albany, 1844; Justice Supreme Court, 1847-1855; served in the Court of Appeals, 1854-55. Twice the Democratic candidate for Governor; Delegate to Constitutional Convention of 1867.







**Amasa J. Parker**



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University. After he retired from the bench in 1855 he engaged with great activity and great success in the practice of his profession in Albany until his death in 1890. During this time he was twice the candidate of the Democratic party for governor, and was also a member of the Constitutional Convention of 1867.

Ira Harris was also distinguished as a lawyer and a judge. He had the great advantage of prosecuting his legal studies in the office of Ambrose Spencer. In 1846 he was elevated to the bench of the supreme court, and served for twelve years, being at the time of his election a State senator. In 1861, after he had retired from the bench, he was, in the memorable contest against Horace Greeley and William M. Evarts, elected United States senator. He served as such during the Civil War, and became the trusted friend and adviser of President Lincoln.

No judges in our history rank higher in judicial acumen and ability than Rufus W. Peckham and his son Rufus W. Peckham, Jr. The public careers of both these distinguished lawyers and judges, so close in their personal resemblance to each other and in their individual characteristics, ran along the same lines to a remarkable extent. Each served with distinction upon the bench of the supreme court and upon that of the court of appeals, and each "died in the harness," the father going down to his death with the ill fated "Ville du Havre" in mid ocean, and the latter dying while serving as an associate justice of the United States supreme court, an office which he had adorned for fourteen years. He enjoyed the excitement and activities of the trial courts rather more than that in the quieter and more scholastic atmosphere of the appellate tribunals, although he was splendidly equipped for the higher service. When President Cleveland appointed him in 1895 to the supreme court at Washington, while he was serving in the court of appeals, he faceti-

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ously said to a friend, "If I have got to be put away on the shelf I suppose I might as well be on the top shelf," and accepted the office.

John K. Porter and Samuel Hand, of Albany, each served for a short time in the court of appeals, and each contributed his part in adding luster to that great tribunal. John H. Reynolds was for a time a valued member of the commission of appeals, a temporary court organized to give the court of appeals relief from an overcrowded calendar.

Diodatus Wright served for a time as a justice of the supreme court, having been appointed in 1857 to fill a vacancy.

When Rufus W. Peckham, Sr., was promoted to the court of appeals, a worthy successor was found in William L. Learned, who was appointed to succeed him as a justice of the supreme court in 1870. This was followed by an election and a re-election to the office, which he held for twenty-three years, during seventeen of which he was presiding justice of the general term in the Third Department.

D. Cady Herrick was elected to succeed Judge Learned. After a service of nearly thirteen years he resigned to accept the nomination of the Democratic party for governor. He is now practicing his profession with offices in Albany and New York.

Alden Chester was elected in 1895 as the additional justice provided by the Constitution of 1894 for the Third Judicial District. From November, 1902, to January 1st, 1909, he served as an associate justice of the appellate division, Third Department. He was re-elected in 1909, having been nominated by both parties, and is now (1910) serving his second term.

George H. Fitts, after a service of nearly four years as justice, recently died in office, having in that short time won the confidence of the bar and the people in his judicial ability in a remarkable degree.

WILLIAM L. LEARNED.

(1821-1904).

Lawyer and Jurist: Justice Supreme Court 1870-93, and for seventeen years of that time Presiding Justice of the General Term, Third Department.





William L. Learned





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Randall J. Le Boeuf is now serving as justice under appointment of Governor Hughes to fill the vacancy caused by the death of Justice Fitts.

The fame of the lawyer is so ephemeral that little is left to us but the names of a few who were at the bar here during colonial times. Those who appear to have had the greatest number of causes on the calendar just prior to the revolutionary war, were Richard Gansevoort, A. Sylvester, Robert Yates, afterwards chief justice, and his brother, Peter W. Yates, the last two apparently having the greater part of the legal business of the neighborhood. Twenty-five years before that, the names of Richard Stevenson, A. Collins and A. Crooke are frequently met with. Whether the latter belied his name or whether it was significant of the character of the man who bore it, is not now known.

After the revolution, Alexander Hamilton and Aaron Burr were frequently engaged in the trial or argument of causes here. Others practicing at the time were Messrs. Visscher, Gilbert, Gansevoort, Sylvester, Wynkoop, Bay, Sill, Graham and Lush.

From that time to the present, the list of Albany lawyers has been crowded with great names. To make adequate mention of them would require volumes, rather than a few closing paragraphs to this chapter.

Perhaps during his time no man argued more cases in the supreme court and the court for the correction of errors than Abraham Van Vechten. He served in both branches of the legislature, and as a senator; was for a time a member of the court of errors, having written many opinions as such which stand as monuments of his great learning. He succeeded that illustrious

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lawyer, Thomas Addis Emmet, as attorney general, and declined an appointment to the supreme court tendered to him by Governor John Jay.

John V. Henry also occupied a commanding position at the bar. He was admitted to practice at the same time as Aaron Burr. His great talents were best shown by the success he won in the many causes which he argued when they were up for review in the higher courts. He served as comptroller of the State under appointment by Governor Jay.

John V. N. Yates, who was a son of Chief Justice Yates, and who studied law in the office of John V. Henry, rose to a front rank in the profession. He also served for a number of years as Secretary of State.

Martin Van Buren and William L. Marcy each practiced law and politics in Albany for many years. They were both distinguished as lawyers, and their names and fame are a part of the heritage of the State and the Nation.

Van Buren's son, John Van Buren—"Prince John," as he was called—practiced here for many years, and was elected attorney general while living here.

Benjamin F. Butler, a law student under Martin Van Buren, and afterwards his law partner, is also a historic name in the country. In 1825 he was appointed one of the commissioners to revise the statutes, and performed his part of that great task with masterly skill. He succeeded Roger B. Taney as attorney general of the United States when the latter was appointed chief justice, and also served as secretary of war in President Jackson's cabinet.

Samuel Stevens, Marcus T. Reynolds and Nicholas Hill were contemporaries, and three of the most eminent lawyers of the State. For many years there was hardly an important case

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tried here in which one or more of them did not take part. General Stevens was an advocate of great power, and was especially successful as a jury lawyer. Mr. Reynolds and Mr. Hill, while excellently equipped as trial lawyers, during the later years of their lives, devoted almost the whole of their time to the argument of causes on review in the higher courts.

John C. Spencer, eldest son of Chief Justice Ambrose Spencer, had become eminent in his profession at Canandaigua before coming to Albany to practice in 1836. He was one of the revisers of the statutes, and also served as secretary of war and as treasurer in the cabinet of President Tyler.

Lyman Tremaine properly ranks as one of the greatest lawyers of his time. After serving as district attorney of Greene county, where he was born, he came to Albany and became the law partner of the elder Rufus W. Peckham. After the elevation of the latter to the bench, Rufus W. Peckham Jr. was his partner, as was also his talented son, Grenville Tremaine, whose untimely death is still remembered with sorrow by many. Lyman Tremaine was a man of commanding eloquence. To draw from a jury a verdict of murder in the first degree, as he did in the case against Mrs. Hartung, who was a young and handsome woman, when defended, as she was, by astute and experienced counsel, showed his marked skill as an advocate in the face of great difficulties. His part in the trial which resulted in the conviction of William M. Tweed, and his forceful and cogent argument of the appeal of Edward S. Stokes resulting in granting a new trial by the court of appeals after a conviction of murder in the first degree for shooting James Fisk Jr., are evidences of the wonderful skill he possessed as a lawyer. He served as member of assembly from Albany county, and speaker of the assembly, as attorney general

## LEGAL AND JUDICIAL

of the State, and as representative at large from the State in congress.

Hamilton Harris, the younger brother of Judge Ira Harris, occupied for many years a commanding position at the bar. He was a clear thinker, a ready debater, a highly cultured scholar and possessed of remarkable common sense. These qualities made him a highly successful advocate either before juries or appellate courts. He was a natural leader, and for many years was chairman of the Republican State committee, and the "power behind the throne" in several State administrations. He was president of the board of capitol commissioners, and may fairly be regarded as the "father of the New Capitol." He served two terms as State senator, and at the time of his death was a regent of the University.

Henry Smith was an eloquent lawyer, and possessed great skill as a cross-examiner of witnesses. He paid more regard to principles than to reported cases. He was a logical reasoner, a ready talker, and with his natural legal mind he met with great success in the trial of causes. He served as district attorney, member and speaker of the assembly.

Matthew Hale, before coming to Albany to reside, had served as a member of the Constitutional Convention of 1867, and also as a senator from the 16th senatorial district. He was an "all around lawyer," well fortified for any professional responsibility, and was connected with many of the most important litigations here for twenty-five years.

Nathaniel C. Moak, who for many years was a partner of Henry Smith, was an indefatigable worker, having a wonderful mastery of cases and a remarkable memory concerning them. He collected not only the greatest private law library in Albany, which after his death was purchased by Cornell University for

ABRAHAM LANSING.

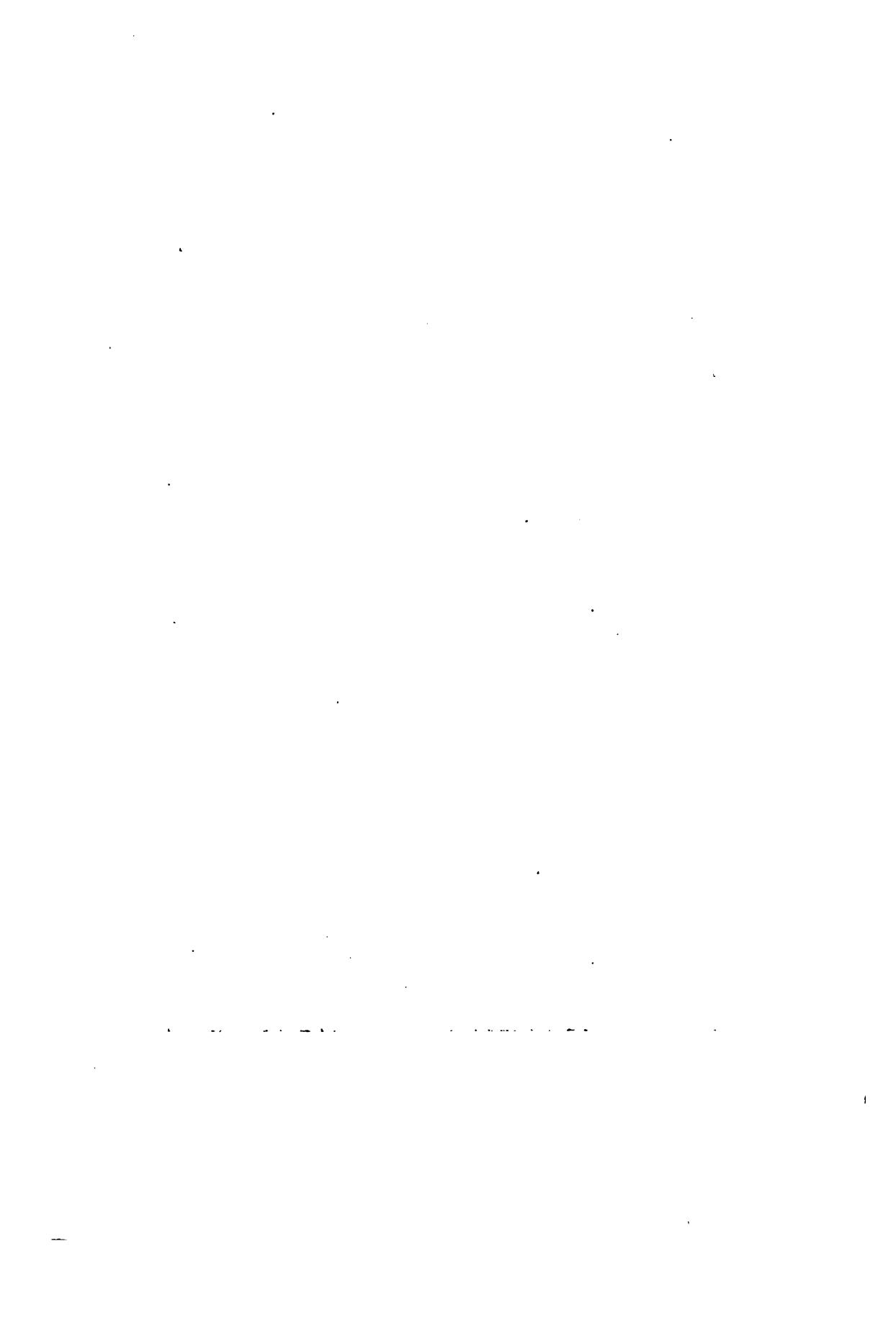
(1835-1899).

Prominent Lawyer; first Official Reporter of Supreme Court; Acting State Treasurer; Corporation Counsel of Albany; State Senator.





**Abraham Lansing**





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the use of its law school, but also a very large and costly miscellaneous library. He found time from his extensive practice to contribute largely to the literature of the law. He tried many difficult and important cases both as district attorney and in his private practice. He was brusque in manner, and a severe antagonist, but he had a heart as tender as a woman's.

Albany has had many other famous lawyers who deserve to be mentioned here, but the limits of this chapter forbid.

There is a very efficient and strong Bar Association in Albany. It was incorporated under the name of the Albany County Bar Association in October, 1900, with fifty-three incorporators, and now (1910) has two hundred and fifteen members. Its objects as stated in its constitution are "the cultivation of the science of jurisprudence, the promotion of reforms in the law, the facilitating of the administration of justice, the elevation of the standards of integrity, honor and courtesy in the legal profession, and the cherishing of the spirit of brotherhood among the members thereof."

The affairs of the Association are managed by a board of directors of nine members who constitute an executive committee, three of whom, the president, secretary and treasurer, are ex-officio members. It maintains standing committees on admissions, on amendments of the law, on judiciary, on grievances, and on judicial nominations.

The presidents have been: William P. Rudd, Charles J. Buchanan and Albert Hessberg. Arthur L. Andrews, corporation counsel of the city of Albany, is the present president.

ALDEN CHESTER.

## LEGAL AND JUDICIAL

### NEW YORK COUNTY

Until the close of the colonial period, New York City, so far as its courts were concerned, was to all intents and purposes New York Colony. It was the seat of government, and the colonial as well as the early State courts were located in the metropolis. Its lesser courts were similar in character to those of the other counties which were organized with itself under the first State Constitution. In 1797, however, Albany was made the capital of the State in place of New York. The seat of the State courts was transferred up the Hudson, and from that time on the city and county of New York became in legal affairs simply on a par with the other counties of the State. The titular legal and judicial supremacy which it had enjoyed from the time the Dutch first settled at the tip end of Manhattan was taken from it.

The courts that remained peculiarly to the county, continued from the colonial period were: the surrogate, the presiding officers of which under the first constitution were appointed by the council of appointment, and under the second constitution by the governor and senate, and became elective under the constitution of 1846; and the court of common pleas, the great historic court of the colonial epoch. The history of the last mentioned court has been presented in full in the first volume of this work.

Toward the close of the first quarter of the century the calendars of the supreme court and the court of common pleas of New York City became congested with business. Heavy bank failures and other commercial troubles were before the courts in such volume that it required more than a year, as a rule, to reach a trial. To cope with this situation the superior court of the city was established by act of the legislature in 1828. To the new court was given the same jurisdiction as was possessed by the

WILLIAM M. EVARTS.

(1818-1901).

Distinguished Lawyer and Statesman; Attorney General in Johnson's Cabinet; Secretary of State in Hayes' Cabinet; United States Senator.





**William M. Evarts**



## *HISTORY OF NEW YORK*

supreme court in all civil cases where either of the parties to action was a resident of the city, and the property involved was within the city limits. It was enacted that the court should be composed of a chief justice and two associates, to be appointed by the governor, with the consent of the senate, for a term of five years. The first chief justice of the court was Samuel Jones, and the importance with which the new court was regarded was shown by the fact that Chief Justice Jones resigned the office of chancellor in order to take the position on the bench of the new court. After 1846 the judges of this court were elected by popular vote.

Justices of the superior court from its establishment in 1828 until it was abolished in 1895, with the dates of their appointment or election were:

Chief Judges: Samuel Jones, 1828; Thomas J. Oakley, 1847; John Duer, 1857; Joseph S. Bosworth, 1858; Anthony L. Robertson, 1864; John M. Barbour, 1869; Claudius S. Monell, 1874; William E. Curtis, 1876; John Sedgwick, 1880.

Associate Judges: Josiah P. Hoffman, 1833; Thomas J. Oakley, 1828; Daniel B. Tallmadge, 1837; Aaron Vanderpoel, 1846; Lewis R. Sandford, 1847; John Duer, 1849; John S. Mason, 1849; William W. Campbell, 1849; Elijah Paine, 1849; Joseph S. Bosworth, 1851; Robert Emmett, 1852; Murray Hoffman, 1853; John Slosson, 1853; Lewis B. Woodruff, 1855; Edwards Pierrepont, 1857; James Moncrief, 1858; Anthony L. Robertson, 1859; James W. White, 1860; John M. Barbour, 1861; Claudius L. Monell, 1861; Samuel B. Garvin, 1863; John H. McCunn, 1863; Samuel Jones, 1865; Freeman J. Fithian, 1869; John J. Freeman, 1869; James C. Spencer, 1869; William E. Curtis, 1871; John Sedgwick, 1871; Hooper C. Van Vorst, 1872; Gilbert M. Speir, 1873; Charles F. Sanford, 1875; John J. Freed-

## LEGAL AND JUDICIAL

man, 1876; Horace Russell, 1880; Charles H. Truax, 1880; Horace Russell, 1881; William H. Arnoux, 1883.

As early as 1744 the lawyers of New York City entered into an association to free the judiciary from the exercise of the king's prerogative. It has been argued by historians that, to a very considerable degree, the society of the Sons of Liberty, which exercised such predominant power in public affairs, leading up to the revolution, was an outgrowth of this association of lawyers. It does not appear that this association was of formal character, but, however informal, it exercised a decided influence not only upon the legal fraternity but upon public opinion at large. In 1763, Lieutenant Governor Cadwallader Colden had an unpleasant experience with this association of the provincial bar, and he complained that it was exercising a most "dangerous influence" which tended uniformly toward "inlarging the powers of the popular side of the government, and depreciating the powers of the crown;" and he suggested that energetic measures should be taken to put an end to what he termed this "Dominion of the Lawyers." The affair which called out this denunciation on the part of Governor Colden was his undertaking to enforce the proposition that the governor and council were entitled to review upon appeal the findings of a jury concerning questions of fact. The bar of New York was unanimous in resistance of this arbitrary proceeding, and it is an exceedingly impressive fact that the lieutenant governor was unable to find a single lawyer to argue his unjust cause when it came to be judicially tested. The standing of the bar in the last years of the colonial period and the early part of the statehood of New York has been clearly and succinctly expressed by one well qualified to speak for the profession.



**PETER AUGUSTUS JAY.**

**(1776-1843).**

Distinguished Lawyer; son of John Jay; Recorder of New York, 1819-21; Member of Constitutional Convention of 1821.

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**Peter Augustus Jay**



## HISTORY OF NEW YORK

"The commanding position held by the bar in colonial times was preserved for more than half a century after the revolution. Throughout all that period the power and dignity of the legal profession were too well recognized to need special assertion of any kind. The bar in those days was a public and social establishment of the most eminent order, because, as an entity, it stood, in universal estimation, at an elevation well corresponding to the attainments and virtues of the great men who adorned it.

"The adoption of the Constitution of 1846 marked a new era for the bar. The ancient distinctions between attorney, solicitor and counsellor were abolished, and all lawyers, from the humblest to the most renowned, were placed on the same nominal footing. The qualifications for admission to the bar were made less exacting, thus rendering it not difficult for any one to enter the ranks of the profession, and finally sweeping alterations were made in the judiciary system, whereby elective judges were substituted for appointive. Moreover, a new system of procedure shortly came into vogue, largely increasing the discretionary powers of the judges, and bestowing upon them an immense patronage in the appointment of receivers and referees, and in the granting of commissions and allowances. The spirit of the times contributed also, in a potent manner, to the changed conditions of the legal profession. The vast expansion of wealth and population, the growth of great corporations, the widespread demoralization attending the civil war, the development of the speculative spirit, and the steady degeneration of political and official morality in the city and the legislature were not without effect upon the legal profession."

One black page has stained the fair history of the judiciary and bar of the State of New York. It treats of New York City, and tells the story of the unscrupulous career of the infamous Tweed ring, which for more than a decade controlled the political fortunes and the municipal affairs of New York City. The manner in which the city was plundered and the disgraceful manner in which corrupt judges were placed upon the bench is an episode that has had few parallels in the annals of the country.

One of the most spectacular and most bare-faced robberies

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1. "The Association of the Bar," by Wheeler H. Peckham, in "History of the Bench and Bar of New York," vol. I, p. 191.

## LEGAL AND JUDICIAL

of Tweed and his associates was in the building of the New York county court house. The original law which authorized the construction of this edifice provided that it should cost not more than two hundred and fifty thousand dollars. Work was begun in 1862, and at that time the sum of one million dollars was appropriated. Year after year as the work progressed, additional sums were provided by complacent legislatures until in 1872 not less than six million dollars had been expended. Nor was this all. The ring thieves manipulated the work in such a manner that finally with their systematic plundering the building cost more than fourteen million dollars.

Disgracefully conspicuous by their subservience to the Tweed gang were three members of the judiciary whose names have been forever recorded as "the ring judges". These judges were George G. Barnard and Albert Cardozo, justices of the supreme court, and John H. McCunn, a justice of the superior court of New York City. So far as corruption is concerned there was little choice between the three. Barnard, immediately preceding his association with the Tweed gang, had been prominent in public affairs as a reformer, or at least a pretended reformer. Disappointed in his ambitions to have the exclusive right of holding special term in chambers under a law which the legislature passed through his influence and that of his friends, he joined hands with Tweed. From that time he became as vicious in his public career as any of his associates. Of Cardozo it has been said that while he was "hard working, learned in the law, perfect in his demeanor on the bench \* \* \* his career was marked by an utter disregard of law and equity." As another commentator upon the affairs of the period has said he sold justice "as a grocer might have sold sugar." It does not appear that McCunn had much legal knowledge or any thing else than an ambition to sell himself

JAMES T. BRADY.

(1815-1869).

Brilliant Advocate; District Attorney and Corporation Counsel of New York; Counsel for defendants in the homicide cases of General George W. Cole, General Daniel E. Sickles, and other important criminal trials, and also engaged in the Parish will case and Forrest divorce case.







James T. Brady



## *HISTORY OF NEW YORK*

for what he might make. It was said then and has never been particularly disputed that he employed eleven lawyers to write his opinions for him.

It was the brazen faced thievery and the impudent insolence of these public criminals that brought into existence the Bar Association of New York City, which along with other associations and individuals had such influence in overthrowing the Tweed ring and unseating the corrupt judges.

The situation was indeed serious. There was a strong disposition on the part of the public to hold the bar to a considerable degree responsible for the scandals and evils which were becoming so frightfully conspicuous in public life, and which it was clear were touching the legal profession, and even the judiciary. Criticism of the profession grew more and more unrestrained, and the remark that was made concerning it "that its glory and dignity were gone, that it had ceased to be a noble profession, and had become merely a trade with the rest," voiced to a considerable extent the popular judgment concerning it. Not only were grave suspicions entertained concerning the integrity of the judiciary, but offences of the bar had become so notorious that there was little or no attempt to disguise them.

Out of this emergency sprang the organization of the Bar Association, measures to institute which were taken in December, 1869, when the committee appointed for that purpose called a meeting to proceed with a formal organization designed to take under consideration the existing conditions of public affairs as related to the judiciary and the bar. As evidence of the general high character of the profession in New York City at that time, some of the two hundred names which were signed to this first call are historically interesting. Among them were William M. Evarts, William Allen Butler, Dorman B. Eaton, F. N. Bangs,

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Edwards Pierrepont, Henry M. Alexander, William G. Choate, Clarkson N. Potter, Sidney Webster, Clarence A. Seward, Joseph H. Choate, Waldo Hutchins, Benjamin K. Phelps, Abraham R. Lawrence, Jr., Charles Coudert, Jr., Samuel J. Tilden, David Dudley Field, Frederick R. Coudert, Charles A. Rappalo, Everett P. Wheeler, Benjamin D. Silliman, Charles A. Peabody, John E. Parsons, Murray Hoffman, James W. Gerard, Jr., William Henry Arnoux, Henry R. Winthrop, Henry Hilton, Frederick Smyth, E. Ellery Anderson, Theron R. Strong, Lewis L. Delafield, Wheeler H. Peckham, Theodore W. Dwight, Henry R. Beekman, Noah Davis, William T. Davies, Henry E. Davies, Elbridge T. Gerry, George DeForest Lord, J. Evarts Tracy, William Jay, James C. Carter, Joseph Larocque, Francis C. Barlow, and John Cadwallader.

Such a list of names was sufficiently significant of the pre-eminently high character of the bar of New York City as a whole, of its jealousy of its good name, and the full determination of its members to clear itself of all doubts and aspersions which might indirectly rest upon it by reason of the malfeasance of a few of their unworthy associates. The Bar Association of the city of New York has had an honorable history in the nearly half a century which has followed its organization, but its pre-eminent distinction rests with the event of its formation, the circumstances which called it into existence, and the great work which it accomplished in the grave emergency which had arisen in the history of the metropolis, and seemed to throw the gravest doubts upon democratic institutions.

The first officers of the association were: William M. Evarts, president; Samuel J. Tilden, James W. Gerard, Joseph S. Bosworth, John Slosson and Edgar S. Van Winkle, vice-presidents; Albon P. Man, treasurer, and John Bigelow, corresponding sec-

CHARLES O'CONOR.

(1804-1884).

Distinguished Lawyer; counsel for the prosecution in the suits against Tweed ring, 1871, and for Samuel J. Tilden before Electoral Commission of 1876.

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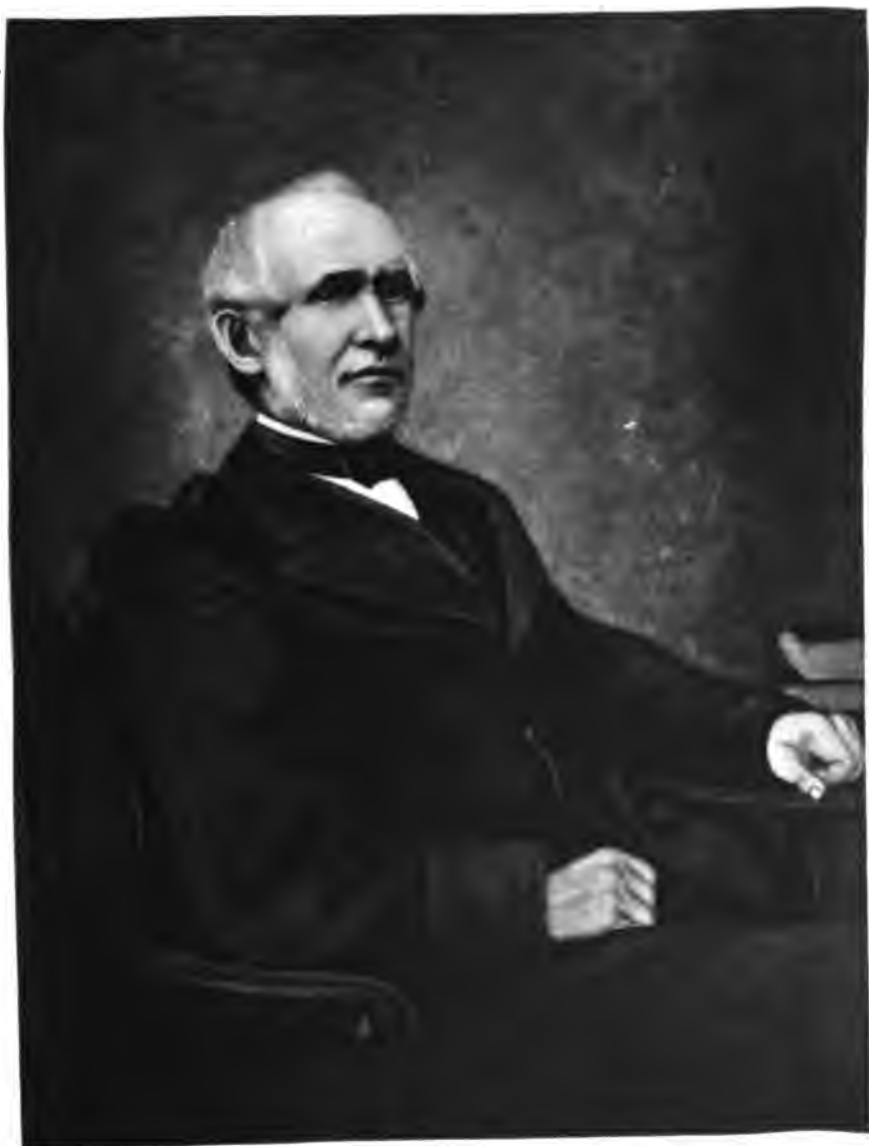
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Charles O'Connor





## HISTORY OF NEW YORK

retary. The objects of the association were defined in the constitution as being "to maintain the honor and dignity of the profession of the law, to increase its usefulness in promoting the due administration of justice, and to cultivate social intercourse among its members." It was however, a year and a half after the first meeting of the bar to consider this organization that the popular uprising came—in the middle of 1871.

Immediately after the election in 1871, when the Tweed ring was defeated at the polls, the association appointed a committee consisting of Wheeler H. Peckham, Noah Davis, John Slosson, Gilbert M. Speir, William M. Prichard, James C. Carter, and Joshua M. Van Cott,

"to inquire into the truth of the charges that had gained credit in this community reflecting upon the administration of justices in this city, and to ascertain whether the same had a just foundation and trustworthy evidence, \* \* \* and to report whether it is expedient for this association to take any and what measures in the premises."

As a result of the work of this committee, its report to the association and the subsequent proceedings of the association before the legislature, charges were drawn up against Judges George G. Barnard, Albert Cardozo and John H. McCunn. The issue of these prosecutions of the three ring judges was a complete victory for justice and right. Judge Cardozo resigned to avoid impeachment. By the unanimous vote of the senate Judge McCunn was removed from office. Judge Barnard was found guilty and was removed from office by the unanimous vote of the senate and the court of appeals sitting as a high court of impeachment. Also, by a vote of thirty-three to two, Barnard was forever disqualified from again holding public office in the State. Never since that time has the integrity of the judiciary been seriously questioned, and the purification which was then accom-

## LEGAL AND JUDICIAL

plished by the efforts of the Bar Association stimulated by strong public sentiment proved to be as conclusive as it was decided, and its influence has been felt to the present day.

In the middle of the last century the New York county courts consisted of the superior court of six judges; the common pleas of three judges; the marine court of three judges; eight district courts; the general and special sessions; eight police justices, and the surrogate. The courts were held in various buildings located in the city park. In the city hall was the office of the clerk of the superior court, and the court rooms of the common pleas. The surrogate had his office in the hall of records. In the building fronting on Chambers street were the rooms of the United States courts, the court rooms and chambers of the supreme court, and the rooms of the marine court, the courts of general sessions, and the clerk of the criminal courts, and the offices of the district attorney. This, which was then called the new city hall, was a plain rectangular building formerly used as an almshouse.

From early in the eighteenth century, the city poorhouse stood upon the site which in contemporaneous times has been occupied by the city hall. Soon after 1750 a jail was built just east of this almshouse. Up to that time the whipping posts, stocks, cage and pillory had been located in Water street, but now they were brought up and set up in front of the new jail, and a gallows was also erected in the rear of the building. Between the almshouse and Broadway the Bridewell was built about 1775, being paid for with funds secured by a lottery. Until 1838 this was used as a prison. Soon after that time it was torn down, when the "Tombs" prison was built to take its

JAMES C. CARTER.

(1827-1905).

Distinguished Lawyer and Author; counsel for City of New York in the suit to recover \$6,000,000 from William M. Tweed, and other important suits; counsel for the United States before the Arbitration Tribunal at Paris in the Behring Sea sealing controversy; counsel for the government in the Income Tax cases.





**James C. Carter**



## HISTORY OF NEW YORK

place. All these structures were of gray stone and the jail was surmounted by a tower which was used as a fire outlook.

The jail acquired an infamous repute during the revolution, when it was used by the British as a prison for the American patriots who were so unfortunate as to fall into the hands of Marshal Cunningham. This use of the jail gave it the name of Provost jail by which it has become well known in history.

After the revolution the jail became a place of detention for unfortunate debtors. It is recorded that during the year of 1788 nearly twelve hundred residents of the town, or one in every twenty of its male population, went to jail for debt.

This use of the building continued until 1829, when the necessity for a debtors' prison no longer existing, the jail was reconstructed and made fire proof for that time, for the purpose of containing the city records. In 1832, the hall of records, as it was thereafter denominated, was occupied by the register, comptroller and the surrogate, and since 1870 has been used solely by the surrogate.

On the site occupied by the city prison, popularly known as the "Tombs," was once a small sheet of water, the Collect Pond, to the west of which were broad meadow lands extending towards the Hudson river, called the Lisperard Meadows. Through this swamp ran a narrow stream that in later years was enlarged into a barge canal, from which circumstance Canal street, following the line of the little stream, derived its name. In 1817 this pond and the adjacent swamp land were filled in, the filling being the first public improvement undertaken after the close of the revolution. At that time the city hall was in process of erection, and its rear looked out upon the swamp and the pond, where a little later Robert Fulton and John Fitch tested their modern steamboats. On the small island in the center of the

## LEGAL AND JUDICIAL

pond was a gallows in pre-revolutionary times, and thus there seemed to be a special fitness in selecting the site for the new prison.

The prison was erected on this filled-in land about 1840. It was designed as an example of Egyptian architecture, and it has been generally regarded as having been, before its remodeling in recent times, the finest specimen of Egyptian architecture to be found outside of Egypt. It gained the name of the "Tombs" from the fact that its location made it damp and unhealthful, while its general appearance was gloomy and forbidding. In 1898 the prison was rebuilt, being much increased in size with an extension of eight stories, and otherwise made into an altogether modern structure of its kind. In the work of reconstruction its former architectural appearance was wholly destroyed. It is now a building of fine proportions and imposing aspect but, situated as it is, it fails to give the fine impression which its construction warrants.

For nearly half a century the New York county jail, better known as the Ludlow street jail, has been situated at the corner of Ludlow street and Essex Market place. It was first occupied in June, 1862, taking the place of the noted Eldridge street jail. The building is built in the form of a L, ninety feet on each street, forty feet deep and about sixty-five feet high, leaving an angle of about fifty feet square, surrounded by a high wall, for a yard in which prisoners are permitted to take their daily exercises. The jail when built contained eighty-seven cells, each about ten feet square, sufficiently large to contain two beds, a chair and a wash-basin. The cells are situated upon the second floor, and are lighted by means of windows about thirty feet in height and proportionate width.

Upon the first floor, to the right of the main entrance, is



HENRY E. DAVIES.

(1805-1881).

Lawyer and Jurist; Corporation Counsel of New York, 1850-53; Justice Supreme Court, 1855-59; Associate Judge Court of Appeals, 1859-65; Chief Judge, 1865-7; Dean of Law School, University of New York, 1870-81.

1



**Henry E. Davies**



## *HISTORY OF NEW YORK*

the office, a spacious apartment, well lighted, and decorated. At the opposite side of the hall, to the left of the main entrance, is the reception and reading-room, where prisoners are allowed to receive their friends and counsel, while the remainder of the first floor is devoted to the dining-room, kitchen, and apartments of the resident keeper and family. From the office a spiral stairway ascends to the prison cells above. The first warden of the jail was Daniel Linn who deceased during his term of office being succeeded by William Moore.

In 1910 the criminal courts are located in a building on Center street, which is connected with the adjacent "Tombs" prison by an elevated and enclosed passage way which extends across Franklin street, and is popularly known as the "bridge of sighs." The building is a handsome edifice of stone, red brick and terra-cotta in the renaissance style of architecture. It has a large interior court elaborately ornamented with carved marble and bronze. In one of the wings of the supreme court are the magnificent Mural paintings of Edward Simmons, which completely cover the wall behind the judges' seats. There are three panels, in the central one of which is an ideal figure of America in the attitude of extending justice to the world; in the panel on the right are the Three Fates—Clotho, Lachesis and Atropos. In the panel on the left are the three male figures typifying brotherhood uniting science to freedom.

During the nearly a century and a quarter since New York entered upon statehood the bar and bench of New York City have been pre-eminent in everything that distinguishes the profession. Its members have won just reputation for learning, integrity and ability that has given them, in large numbers, state and national

## LEGAL AND JUDICIAL

reputation, and in several instances their fame has been international. To name all who have thus conferred honor upon themselves and the community in which they have lived and labored would fill many printed pages. One eloquent advocate who in a long span of life knew most of these great men to the close of the nineteenth century, on one anniversary occasion vividly marshalled some of the most eminent of them before his hearers. He said:

"In my span at the bar what a host of noble men have gone from it in close procession to the grave. Would that the time permitted me even to recite their names; would that it permitted me to give adequate sketches of Abraham Van Vechten, of Albany, the patriarch of the bar, whose unbounded knowledge of the law and exalted character and powerful reasoning made him honored of all men; the grand and genial David B. Ogden, of whom Chief Justice Marshall said that 'when he had stated his case it was already well argued'; Peter A. Jay, the scholarly, refined and profound lawyer; William Slosson and Thomas Ludlow Ogden, and George W. Strong and Jonathan Miller, on each of whom clients safely relied in all matters affecting their estates and last wills and testaments; the very lofty, learned, and accomplished John Duer, to whom, with his pure, wise, and learned associate Benjamin F. Butler, and the clear and strong John C. Spencer, we owe the revised statutes, the right-minded and clear-headed Daniel Lord, for many years the leading commercial lawyer in this city, who, when the facts were stated, so immediately saw the whole case, and what he termed 'the morality' of it and the law governing it, that his first argument of it in the court below was hardly surpassed by his final argument of it in the court of errors or appeals, he had quick perception of character; \* \* \* the fascinating Ogden Hoffman, the Erskine of our bar, who left the navy for the law, at which like his father, he became powerful and eminent, and captivated all by his wit and his wonderful eloquence; his voice was music from the note of a lute to the blast of a bugle; William Kent, whom everybody loved and admired; like his father, he read everything, and forgot nothing; whenever he was seen in court, all waited to hear him, for even on a common motion he could not avoid charming his hearers alike by his polished wit, his sound law, and his beautiful diction; Marshall S. Bidwell, than whom no better man or lawyer lived; Prescott Hall, William C. Noyes, Edward Sanford, Nicholas Hill, and Francis Cutting, each a gentleman respected and loved by his peers, each master of the law, and each very

THEODORE W. DWIGHT.

(1822-1892).

Jurist and Educator; Professor of Law, Hamilton College,  
Dean of Columbia College Law School, which he founded; Com-  
missioner of Appeals, 1874-75.







Theodore W. Dwight



## HISTORY OF NEW YORK

eminent, powerful and successful in enforcing the rights of his clients; George Wood, conspicuous for his wonderful learning, his wonderful power in stating, and his mathematical power in arguing his cases; James T. Brady, whose genial nature, wide learning, and masterly eloquence made him one of the strongest and most conspicuous men of his day; James W. Gerard, irresistible socially and at nisi, he bewitched juries, convinced the courts, and was an unsurpassed favorite with the bar; John Anthon, who for years monopolized the superior court, in which it was said of him that 'he resided,' and whose light reading was the Greek and Latin classics; William Mitchell, the manly, gentle, strong, and learned judge; Edgar S. Van Winkle, a wise guide and counsellor of trustees of banks and other corporations and of great estates; Chief Justice Samuel Jones, at one time chancellor, for many years judge of the superior court and afterward of the supreme court, and of whom we all spoke, not irreverently, as 'the old chief,' than whom, perhaps, no more learned judge or able lawyer, save Chancellor Kent, could be named at the bar."<sup>2</sup>

Recorders of the city of New York from the first appointment in 1683 to the last incumbent in the opening years of the twentieth century, have been: James Graham, 1683-1688; William Pinhorn, 1691-1693; James Graham, 1693-1701; Abraham Gouverneur, 1701-1703; Samson Shelton Broughton, 1703-1705; John Tudor, 1705-1709; May Bickley, 1709-1712; David Jamieson, 1712-1725; Francis Harrison, 1725-1735; Daniel Horsmanden, 1735-1737; Simeon Johnson, 1737-1769; Thomas Jones, 1769-1773; Robert R. Livingston, 1773-1774; John Watts, Jr., 1774; Richard Varick, 1783-1788; Samuel Jones, 1789-1796; James Kent, 1796-1798; Richard Harrison, 1798-1800; John P. Provost, 1800-1804; Marturin Livingston, 1804-1806; Pierre C. Van Wyck, 1806-1807; Marturin Livingston, 1807-1808; Pierre C. Van Wyck, 1808-1810; Josiah Ogden Hoffman, 1810-1811; Pierre C. Van Wyck, 1811-1813; Josiah Ogden Hoffman, 1813-1815; Richard Riker, 1815-1819; Peter A. Jay, 1819-1820; Richard Riker, 1821-1823; Samuel Jones, 1823-1824; Richard

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<sup>2</sup> Anniversary address by the Honorable Benjamin D. Silliman, May 24, 1889.

## LEGAL AND JUDICIAL

Riker, 1824-1838; Robert H. Morris, 1838-1841; Frederick A. Tallmadge, 1841-1846; John B. Scott, 1846-1849; Frederick A. Tallmadge, 1849-1852; Francis R. Tillou, 1852-1855; James M. Smith, Jr., 1855-1858; George G. Barnard, 1858-1861; John T. Hoffman, 1861-1866; John K. Hackett, 1866-1879; Frederick Smythe, 1880-1894; John W. Goff, 1894-1906.

Surrogates of the county from 1787 have been: David Gelston, 1787; Sylvanus Miller, 1801; Ogden Edwards, 1807; Sylvanus Miller, 1808; John W. Mulligan, 1810; Sylvanus Miller, 1811; James Campbell, 1821; David D. Ogden, 1840; Charles McVean, 1844; Alexander W. Bradford, 1848; Edward C. West, 1857; Gideon J. Tucker, 1862; Robert C. Hutchings, 1869; Stephen D. Van Schaick, 1875; Delano C. Calvin, 1876; Daniel G. Rollins, 1883; Rastus S. Ransom, 1888; John H. V. Arnold, 1893; F. T. Fitzgerald, 1893; Abner C. Thomas, 1899; John P. Cohalan, 1907.

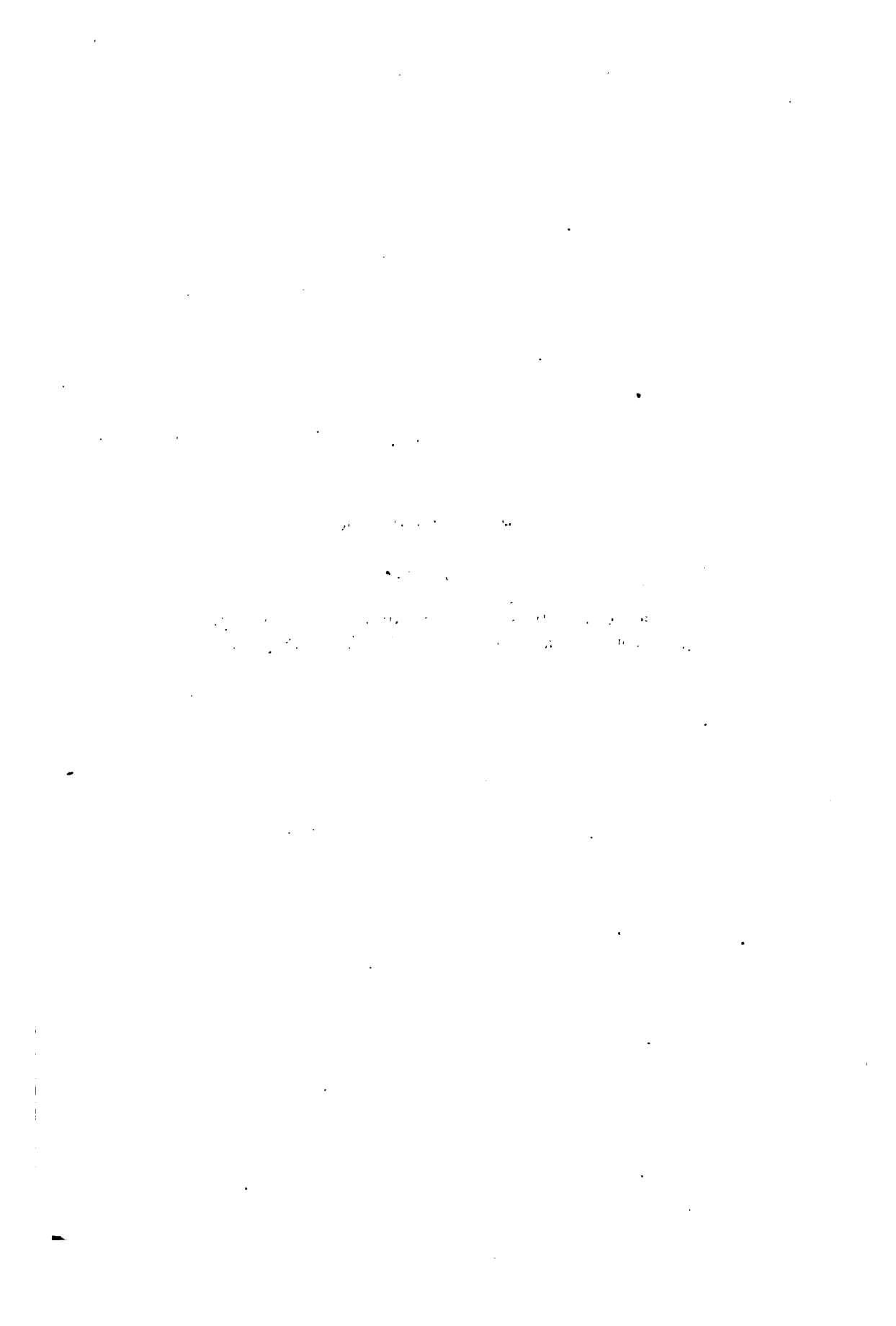
Under the legislative act of February 5, 1796, the State was divided into seven districts, which embraced several counties, and for each one of these an assistant attorney general was assigned at the pleasure of the governor and council. In New York county the attorney general officiated personally. The office of district attorney was created April 4, 1801. Under this act New York county was included with Kings, Queens, Richmond, Suffolk and Westchester. Successive district attorneys for this district were Richard Riker, 1801-1810; Cadwallader D. Colden, 1810-1811; Richard Riker, 1811-1814; Barent Gardinier, 1813; Thomas S. Lester, 1814-1815; John Rodman, 1815-1817.

By a law passed in 1818, each county was constituted a separate district for the purpose of this office. Under the second

RICHARD RIKER.

(1773-1842).

Lawyer and Jurist; District Attorney of New York, 1801-13, except one year; Recorder of New York, 1815-38.





**Richard Riker**





## *HISTORY OF NEW YORK*

constitution district attorneys were appointed by the court of general sessions of each county, but by the constitution of 1846 the office became elective.

From 1818 to the present time the district attorneys have been: Pierre C. Van Wyck, 1817; Hugh Maxwell, 1819; Ogden Hoffman, 1829; Thomas Phoenix, 1835; James R. Whiting, 1838; Matthew C. Patterson, 1844; John McKeon, 1846; John McKeon, 1847; N. Bowditch Blunt, 1850; Lorenzo B. Shepard, 1854; A. Oakley Hall, 1854; Peter B. Sweeney, 1857; Joseph Blunt, 1858; Nelson J. Waterbury, 1858; A. Oakley Hall, 1859; Samuel B. Garvin, 1869; Benjamin K. Phelps, 1872; Daniel G. Rollins, 1881; John McKeon, 1881; Peter B. Olney, 1883; Randolph B. Martine, 1885; John R. Fellows, 1888; Delancey Nicolls, 1890; John R. Fellows, 1893; William K. Olcott, 1897; Asa Bird Gardiner, 1897; Eugene A. Philbin, 1900; William Travers Jerome, 1901; Charles S. Whitman, 1909.

In 1910, the criminal courts of New York county were the supreme court term for the trial of indictments; the general sessions; the special sessions; and the city magistrates' court. The courts of law were the appellate division of the supreme court; the appellate, special and trial terms of the supreme court; the city court; the surrogate's court and the municipal courts.

The judges of the general sessions were: Thomas C. T. Crain, Edward Swann, Joseph F. Mulqueen, James T. Malone, Thomas C. O'Sullivan, Otto A. Rosalsky and Warren W. Foster.

The judges of special sessions were: John B. Mayo, William E. Wyatt, Joseph M. Deuel, Lorenz Zeller, Franklin C. Hoyt and W. H. Olmsted.

The city magistrates were: Frederick B. House, Leroy B. Crane, Matthew P. Breen, Daniel E. Finn, Robert C. Cornell, Charles N. Harris, Frederick B. Kernochan, Henry Steinert,

## LEGAL AND JUDICIAL

Moses Herrman, Joseph F. Moss, Peter T. Barlow, Arthur C. Butts, Henry W. Herbert, Keyran J. O'Connor, Joseph E. Corrigan, secretary, Philip Bloch.

In the appellate division of the supreme court, Justice George L. Ingraham was the presiding justice and his associates were, Chester B. McLaughlin, Frank C. Laughlin, John Proctor Clark, Francis M. Scott, Victor J. Dowling and Nathan L. Miller. The judges of the supreme court, sitting in New York were, Samuel Greenbaum, James A. Blanchard, Nathan Bijur, Edward J. Gavegan, Vernon M. Davis, Edward E. McCall, Edward B. Amend, James A. O'Gorman, Henry Bischoff, Jr., James Fitzgerald, Leonard A. Giegerich, David Leventritt, Alfred R. Page and Philip H. Dugro, Edward B. Whitney, Joseph E. Newburger, Peter A. Hendrick, John W. Goff, Samuel Seabury, M. Warley Platzek, John Ford, Charles W. Dayton, John J. Brady, Mitchell L. Erlanger, Charles L. Guy, James W. Gerard and Irving Lehman. The judges of the city court were Edward F. O'Dwyer, chief judge, and Edward B. LaFetra, Joseph I. Green, Richard T. Lynch, F. B. Delehanty, Thomas F. Donnelly, Alexander Finelite, John V. McAvoy, Peter Schmuck and Richard Smith.

The surrogates were Abner C. Thomas and John P. Cohalan.

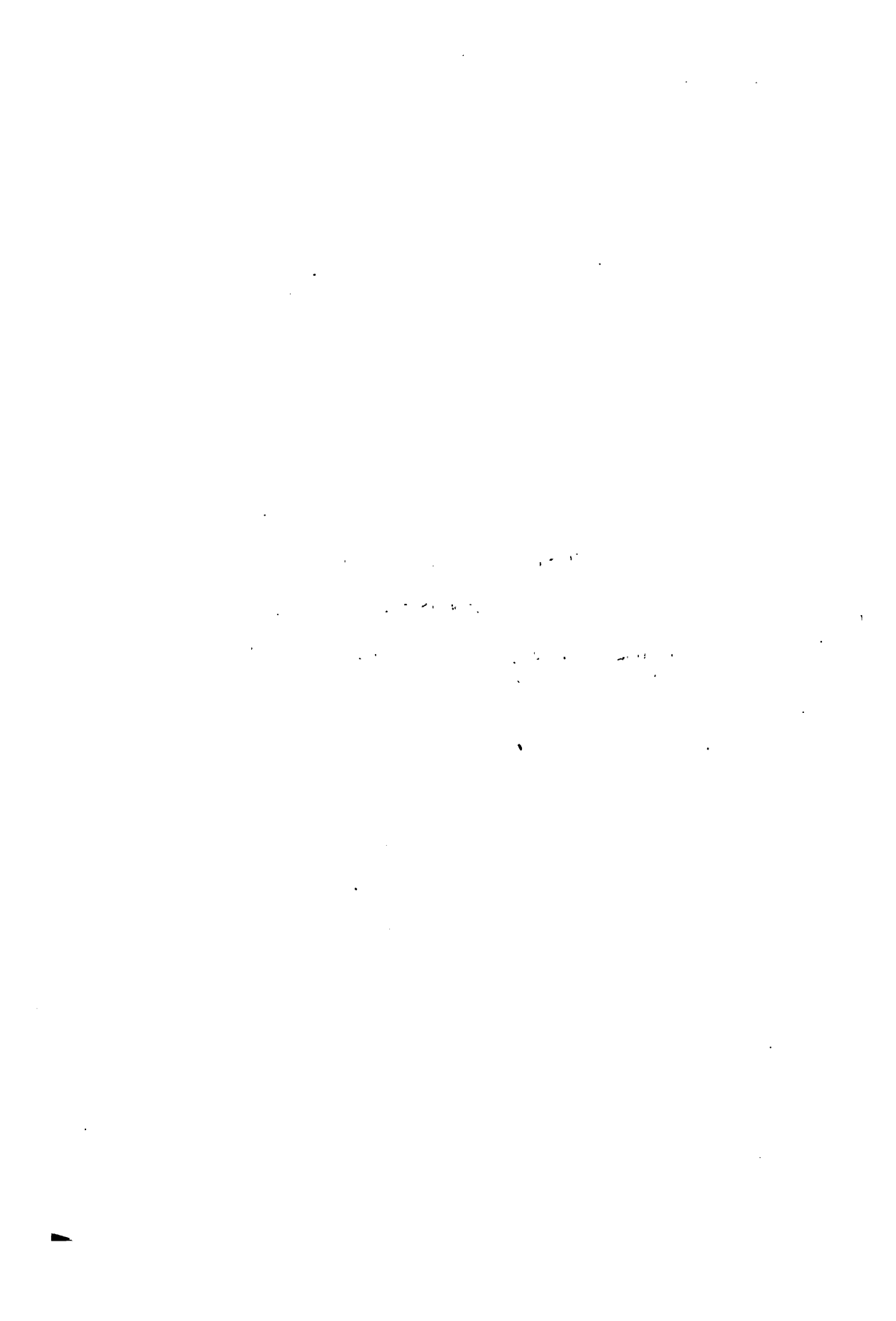
### KINGS COUNTY

During the first century of the Dutch and English occupation of Manhattan and Long Island and contiguous territory, the legal affairs of that particular section which afterwards became Kings county, were in no wise apart from the colony as a whole, and as each they have been set forth in the preceding volume of this work. Aside from the small local courts which in the early judicial systems were provided for the different towns, the legal affairs of the territory centered in

JOSIAH OGDEN HOFFMAN.

(1766-1837).

Distinguished Lawyer: Recorder of New York; Justice Superior Court, 1828-1837.





Josiah Ogden Hoffman



## *HISTORY OF NEW YORK*

New York city. Immediately after the formation of Kings county in 1683 by an act of the colonial assembly dividing the provinces into counties, and abolishing the ridings which previously existed, the bar of the county was organized. In the early time and, in fact, during the entire colonial period matters of minor importance were adjusted in the town and justices courts. While the higher courts of the State took cognizance of causes of importance arising in the county, the judges of the supreme court who presided in oyer and terminer and in circuit, were judicial officers of the State, and not specifically of Kings county. It has been remarked that among them was none from the county of Kings.

Beginning with the institution of the State government after the revolution, the court of common pleas was established in every county of the State, and this may be considered the first legal tribunal in the history of Kings as a county. At first it was composed of one judge, and three justices associated with him, but in 1702 it was ordered that the judge should be assisted by two or more justices while holding the court. The court of general sessions of the peace for the trial of criminals was held by the first presiding judge of this court. Little of the proceedings of the court of common pleas of the county can be found recorded until after the appointment of Nicholas Cowenhoven, which took place March 28, 1785.

As far as is known, the first court of record ever held in the county was convened in Gravesend, March 17, 1668. Several causes, none of them of great importance, were tried. One was a suit brought by Peter Faltus against Nicholas Janner for "tortiously taking and converting to his own use one vehical known as ye cart with ye attendant impliments, of the value of ten pounds." The case resulted in a verdict for the plaintiff for the full amount of his claim, with six cents costs of suit.

## LEGAL AND JUDICIAL

The following copy of an ancient order issued by one of the justices of the peace of the county is interesting as exhibiting one form of legal documents of the colonial period. It was addressed by Thomas Sanders, justice of the peace for the county, to Adrian Hageman, the high sheriff.

"To all constables and other officers as well, within the said county as elsewhere within the colony of New York, to whom the execution hereof doth or may concern, Greeting:

"Whereas, I have received information and charge against one James Jones, Lately Come from Lebanon In ye County of Windham, in ye Colony of Connecticut and Liveing, It is Said in Kings county, at the house of one Alexander Griggs Calls himself a Weaver a Lusty Well-Sott Likely man full faced Browne Complexioned and wears a black Wig Irish man; by birth by the brogue on his Speack Who is Charged before me to be a Dangerous person and is suspected to have Stolen a Silver Spoon or the biggest part Silver Spoon; as by a Warrant Produced and the complaint of William Dreddy in Lebanon County Connecticut aforesaid some time in ye month of this present November.

"Notwithstanding Sevvorall Indeavors for apprehension of him he hath not yett been apprehended but hath withdrawn himself and fled—Lately from Lebanon in ye county of William in ye Colloney of Connecticut and is come of one County of Kings These are therefore in his majesty's name to Command You and Every of You to make diligent Search Within your Severall Prescincts and Districts for Said James Jones and to make hue and Cry after him from Towne to Towne from County to County and that as well by horseman and footman According to Law and if you shall find the said James Jones That then you do Carry him before some one of his magisties Justices of the Peace Within the County or place Where he shall be taken to be Dealth withall Acording to Law Hereof fail not at your peril—Given under my hand in Dutchess County this 17th day of November, in the fourth year of our reign, and In The Year of our Lord God Everlasting Ano 1730."

The several towns which were afterwards included within the county had their individual town houses. That in Bushwick has remained standing until modern times and around it have centered many memories of the ancient civil, ecclesiastical and



## *HISTORY OF NEW YORK*

educational activities of the town. In front of it, or in front of its predecessor, various criminals were exposed from time to time for punishment. There one John Leyden was tied to the stake, with a horse bridle in his mouth and a bundle of rods under his arms, and a placard on his breast stating that he was a writer of lampoons. There, too, a thief was once punished by being made to stand under the gallows with a rope around his neck and an empty sword scabbard in his hand. And other offenders were made to similarly feel the condemnation of justice. Long after the revolution, the old town house continued to be the local seat of justice and on town meeting days it was opened for the assembling of the people. After a time part of it was rented to a Dutch tavern keeper who provided lodgings for the justices and constables. Finally, however, the structure was sold and, ceasing to be town property, it became regularly a tavern.

Kings county's first court house was located at Gravesend (Amersfoort). Erected in 1668, it stood on one of the squares of the original village-plat, near the later site of the Dutch Reformed Church. In this building the courts were held until 1686, when they removed to Flatbush, in accord with the provisions of an act of the colonial assembly. The reason for this change was that the people complained that Gravesend was inconveniently located for the transaction of county business. In Flatbush, in 1686, another court house was erected—a small unpretentious building, wholly devoted to the use of the courts, standing on ground which became known as the "court house lot". A jail was built entirely separate from the court house. These two buildings accommodated the business of the county for more than seventy years.

In 1757 the jail was burned and the court house was barely

## LEGAL AND JUDICIAL

saved from the flames. Subsequently the court house was taken down and a new building erected. This was two stories high, and was designed both for court and jail purposes. A hall ran through the building dividing the lower floor; on one side was the jailer's room, and on the north side the jail apartment.

The jail room was constructed of heavy oak planks fastened to solid timbers by wrought iron spikes, and the floor was of the same material. The doors were made of heavy oaken timbers four or five inches thick, the planks running diagonally and being defended by heavy iron bars horizontally across the door. A single diamond-shaped opening near the top of the door was strongly bound in iron. Two grated windows opening to the street gave light to the apartment. Sometimes the grates of those windows were cut with instruments supplied by friends to the prisoners, who thereby were enabled to escape. On the second story of this building was the court room, with a bench for the judges, desk for the clerk, the needed chairs for the jurors, docks for prisoners, and seats for spectators. The original cost of the building was £448, which was raised by assessment upon the taxable inhabitants of the county. During the revolution, while the British were in possession of Long Island, the court room was converted into a ball room for the use of the British officers.<sup>1</sup>

In 1792 this building was found so small and inconvenient and so much out of repair that a more commodious court house was demanded. Measures were adopted for the erection of a better building, much larger than that which it was to supersede, but built on much the same plan. Commissioners appointed to superintend the erection of the structure were: John Vanderbilt, Johannes E. Lott, and Charles Doughty; Mr. Vanderbilt declining

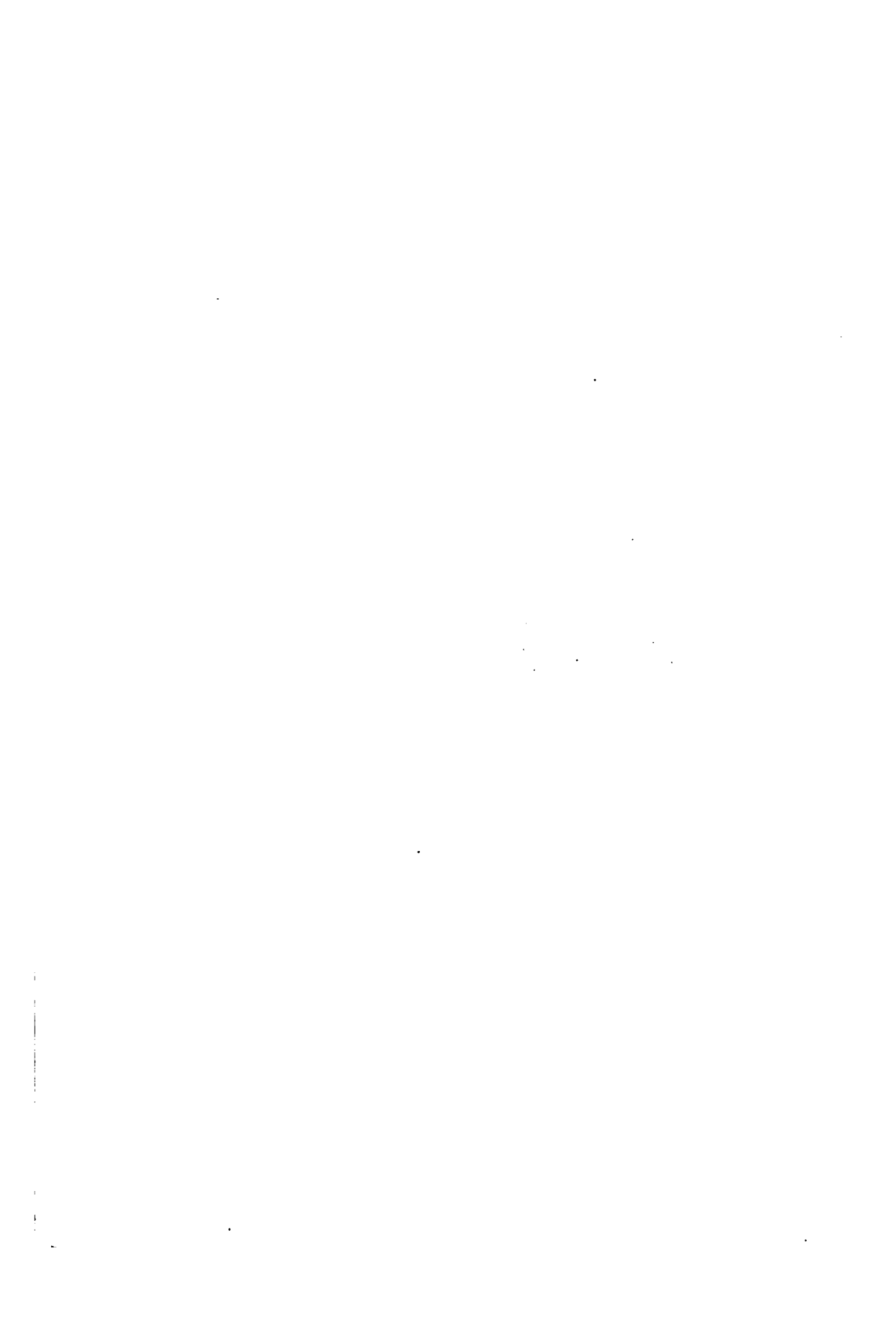
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1. "History of the Bench and Bar of Kings County," by L. B. Proctor, in "The History of Kings County," by Henry R. Stiles, vol. I, p. 339.

EDGAR M. CULLEN.

(1843—).

Lawyer, Soldier and Jurist: served in the Civil War, attaining the rank of colonel of volunteers; Justice Supreme Court, 1880-1904; served as Associate Judge Court of Appeals by designation, 1900-4; Chief Judge since 1904.





Edgar M. Cullen



## HISTORY OF NEW YORK

to serve, Rutger Van Brunt was appointed in his place. The old court house was sold at auction, and its wooden timbers were used for the building of a dwelling house.

In 1793 the new court house and jail, the third in the county, was completed at a cost of \$2,944.71. The contractor was Thomas Fardon, and the plans for the building were furnished by Messrs. Stanton, Newton and James Robertson. It differed somewhat from the former building, in that it had a curved roof, and was surmounted by a small cupola, within which was a bell, and on top of which was a weather-vane. The court room was on the second floor, and in addition to being used for court purposes, was utilized for school exhibitions, town meetings, and other public gatherings. Referring to this court house, Judge Furman, the Brooklyn historian and antiquarian, said: "In 1811 the court house was let to James Simson for one year at £3 in money". In this agreement "the justices reserved for themselves the chamber in the said house called the court chamber, at the time of their publique sessions and courts of common pleas, and private meetings; as also the room called the prison, for the use of the sheriff if he had occasion for it." It appears that the new jail was quite as insecure as the old one, and prisoners found little difficulty in escaping from it. It became a common remark in those days that "prisoners were in great danger of falling out of Flatbush jail."

At that early day there was some ceremony in opening the circuit at Flatbush. All in attendance assembled at the tavern, the ancient sign in front of which still bore the ante-revolutionary device of the lion and the unicorn fighting for the crown—and, on the tolling of the bell, moved in solemn and grand procession to the court house, the sheriff with stately pace leading the column, followed by the judge, at whose side marched the county clerk; then came the bar, then the grand jurors, and then the petit jurors and others.

## LEGAL AND JUDICIAL

Prior to 1783 there was no practicing lawyer resident in the county in the opening year of the nineteenth century. At that time there were only fifteen lawyers who belonged to the county bar, and thirty-five years later the bar had but twenty-one members. They were James B. Clark, Richard D. Covert, George C. Dickson, John Dikeman, Theodore Eames, Gabriel Furman, William A. Green, Nathan B. Morse, Henry C. Murphy, Nathaniel Porter, Alpheus P. Rolph, Gilbert Reed, William Rockwell, John Smally, Silas P. Smith, William B. Waldo and Nathaniel Waring. By the close of the century there were 1,500 members.

In December, 1821, the subject of removing the court house from Flatbush to Brooklyn was first agitated, and nearly three years later, in January, 1825, a committee was raised to further the project. In 1826 the subject was brought to the attention of the legislature, and that body passed an act that the court of common pleas and general sessions should alternate between Flatbush and Brooklyn in the former place to sit in the court house and in the latter village in the Apprentices' Library which had been just finished in Cranberry street. The county clerk's office was removed to Brooklyn in March, 1819, and the county court began to hold sessions in Brooklyn in January, 1827.

In 1832 the Flatbush building was burned, and comment has been made upon the fact that "during the conflagration all the prisoners confined in the jail, except one, labored with great alacrity to extinguish the flames; and, when all was over, voluntarily submitted to reimprisonment provided in another place." After the destruction of this court house, Flatbush ceased to be the county seat, the courts and all other county business being transferred to Brooklyn. It was five years before the new court



## HISTORY OF NEW YORK

buildings were completed in Brooklyn, and during that time the county courts were held in the Apprentices' Library. As there was no jail, prisoners arrested in Kings were sent to the old Bridewell prison in New York city, where they were in charge of the sheriff of New York.

Thereupon one of the principal measures before the public was the location of a county court house. In view of the rapid increase of property and population which had taken place in Brooklyn, it seemed appropriate that the new edifice should be erected there. The town then had 2,266 electors, whereas all the rest of the county had only 710; 553 jurors and the other towns 270; taxable property assessed at \$7,829,684, while that of the rest of the county was only \$1,610, 594. The proposition, however, to locate the court here, and to increase the representation of the village in the board of supervisors, met with strenuous opposition from the other towns of the county. An act was finally passed by the legislature, April, 1833, authorizing its location in Brooklyn, and appointing Messrs. L. Van Nost-rand, Joseph Moser and Peter Conover as commissioners to fix upon the site.

Upon the completion of the city hall in 1849, rooms for holding the various courts of record in the county were prepared in that building, and there they were held until 1865.

Several interesting cases were tried in the early courts of the county after the revolution. For years there was a bitter dispute known as the "Bruyn or Brume controversy", between the town of Gravesend and those who had by purchase become owners of what was known as the "Bruyn" patent, which included the fishing in certain waters in the town. In 1789 one

## LEGAL AND JUDICIAL

Albert Voorhees, who had been the owner of the patent, brought action for trespass against several inhabitants of the town for taking fish in the waters which he claimed. The trial of the case, which occurred in September, 1789, was particularly noteworthy from the fact that the celebrated Aaron Burr, who was then in the midst of his splendid practice at the bar and one of the most distinguished lawyers in the country, appeared for the town. The jury brought in a verdict in accord with the argument of Mr. Burr, and in favor of the town of Gravesend and its inhabitants. It appears from the records that Burr received for his services in this suit altogether thirty-five pounds. To the hotel keeper in Flatbush for entertaining during the trial, thirty pounds was paid, and also the amount of Burr's bill at the same hotel for board while he was conducting the trial.

So far as the records go, the first circuit court and court of oyer and terminer held in the county subsequent to the organization of the State government was on June 6, 1800, at Flatbush. Judge Egbert Benson, of the supreme court, presided. The clerk of the court of the county at that time was Leffert Lef-ferts, Jr., who was appointed April 5, 1800. The sheriff was Cornelius Bergen, who was appointed February 17, 1800. The famous charge of Judge Egbert Benson on the occasion of the opening of the first circuit court and oyer and terminer in 1800 is still remembered. He said:

"Your county, gentlemen, over which the smoke of battle fields has but recently floated has before it a magnificent future. Upon grand juries, upon courts of justice, upon the officers of courts, and upon all persons connected with the administration of the laws rest solemn responsibilities which are to tell on the future, for now is the seed time, now is the ground fallow which is to yield fruit for generations to come. See to it then, gentlemen, that the responsibilities with which the law clothes you are properly executed and directed."

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The first cause tried was that of John Van Nuis versus Peter Duryea. The attorney for the plaintiff was the celebrated Peter R. Livingston of Dutchess county. The last court held in Flatbush was on May 4, 1832, Judge Ogden Edwards, presiding.

The first court held in Brooklyn opened November 1, 1832 in the Apprentices' Library, Judge John Dikeman presiding. Abraham Vanderveer was clerk of the court. John Lawrence was the sheriff, having been appointed to that position in 1831. He was the successor of John T. Bergen, who had held the office from February 12, 1821, being the last officer appointed for Kings county before the office of sheriff was made elective. In November, 1822, at the first election held under the new constitution, he was elected sheriff, and was again elected in 1828, resigning in 1831 in consequence of having been chosen a representative to congress.

In connection with the cupola of the city hall when that building was still used by the courts in 1852, an interesting incident occurred. "It was noticed that this feature of the building swayed and needed to be strengthened. The necessary steps were taken to render it firm and secure. At the time the men were engaged in the work the court of oyer and terminer was holding a session in the room known and distinguished as the governor's room, Judge N. B. Morse presiding. One day while the court was engaged in a criminal trial, a beam which was being raised slipped from the rope, and fell upon the roof above the court room, causing the plaster and ceiling to give way. At once the court officers, jurors and spectators became alarmed; some ran for the door, some for the windows, and others sought refuge under the tables. Judge Morse took a position by one of the windows, and, shaking his fist at the audience, exclaimed

## LEGAL AND JUDICIAL

'The wicked flee when no man pursueth'. A few frightened ones got on their knees and fervently prayed. The prisoner at the bar was the only one unmoved."<sup>2</sup>

The subject of building a new court house was agitated before the middle of the nineteenth century. After Brooklyn, Williamsburg and the town of Bushwick had been consolidated into one city, the court accommodations in the city hall were more than ever inadequate and agitation for the erection of an independent court house was renewed. In January, 1853, a special committee of the board of supervisors reported in favor of asking the legislature to authorize the work. In response the legislature passed an act giving permission to the county to borrow a sum not to exceed \$100,000 for the purchase of the site and the erection of the buildings. Some discussion ensued in regard to the site for the proposed buildings, and one of the locations which was seriously considered, principally on account of its sightliness, was Fort Greene. Subsequently Vanderbilt avenue near Baltic street was proposed, but this site met with opposition. Thus the project was delayed for one reason or another until 1860, when a new application was made to the legislature, and new authority received. The board of supervisors were authorized to select and determine the location and to superintend the building. As in the years preceding the advocates of different localities became active and the old discussion was renewed. Finally a plan submitted by King & Tackritz, of Brooklyn, was accepted, and land on Fulton street near the city hall was purchased in March, 1861, as the final decision of the board of supervisors. This spot was once the Brooklyn Garden and also as the Military Garden it was a place of popular resort famous in the

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2. "History of Brooklyn and Kings County," by Stephen M. Ostrander, vol. II, p. 131.

## HISTORY OF NEW YORK

village annals. The ground on which the court house stands is one hundred and forty feet on Fulton and Joralemon streets, by three hundred and fifty-one feet deep.

The building was constructed under the direction of the board of supervisors, a special building committee being Samuel Booth, Charles C. Talbot, William H. Hazard, Charles A. Carnaville, Gilliam Schenck and George G. Herman. The corner stone was laid May 20, 1862, with Masonic ceremonies, and on this occasion addresses were made by Mayor Kalbfleisch, General Crooke, president of the board of supervisors, Judge John A. Lott and the Rev. Dr. Richard S. Storrs.

Three years were then expended in the building of the edifice, which ultimately cost, with the land upon which it was located, nearly \$550,000. In March, 1865, the supreme court, the county court, the city court, the sessions, supervisors and other offices were located therein.

The main building of this structure is of Westchester marble, with Corinthian columns. It is sixty-four feet in height, and one hundred and forty feet in width, and extends back to Livingston street, a distance of two hundred and fifteen feet. It is surmounted by a cupola composed of ribs and panel work, rising one hundred and four feet above the street.

The trustees of the village of Brooklyn deemed a debtor's prison an important addition to the city. In February, 1829, Joseph Sprague, president of the board of trustees, made a report on the subject of fitting up under the market a prison room for debtors. A lockup was provided and cells built under the market. These cells were often crowded, and little provision was made for the comfort of the occupants. During those early days prisoners were also confined in cells in the almshouse, then situated on the

## LEGAL AND JUDICIAL

south side of Nassau street, between Bridge and Jay streets. The building is still standing and has been converted into dwellings.

The first county jail building was erected on Raymond street in 1839, and six years later an addition was built to provide for a female ward. Until 1864 the supervisors held meetings in the jail and at that time the county court was also held in one of the rooms of the building. In 1879 the present structure was erected and it has accommodations for seven hundred and fifty inmates, a capacity largely in excess of any demands that have yet been made upon it.

In 1846 the board of supervisors began consideration of purchasing land on which to erect the work house and penitentiary in accordance with the act of the legislature passed in April of that year. A tract of land was purchased on a spot familiarly called Crow's Hill, a space of two blocks on the outskirts of the city, bounded by Nostrand, Rogers, President and Carroll streets; the institution faces on Carroll street. Work upon the building was begun in 1846, and in March, 1848, a small portion of the structure was so far completed that the first prisoners, thirteen in number, were received into it. In the following year the hospital was finished. The entire building was completed in August, 1856, at a total cost of \$205,000. Meantime steps had been taken to build a female wing and this was done in 1855. Prisoners committed for thirty days or over are sent to this institution. The penitentiary has been particularly famous for the reason that it has been utilized by the United States government as the place of confinement for Federal prisoners.

The municipal court of the village of Brooklyn was retained in the city organized by an act of April 3, 1827. The justice of that court had the power in criminal proceedings of justices of the peace elected in the several towns of the state. Until 1850 the

## *HISTORY OF NEW YORK*

corporation of Brooklyn continued under these laws, but under the charter of 1846 the legislature passed an act defining the boundaries and civil divisions of the city and establishing the municipal form of government with its various officials. Provision was made for the establishment in Brooklyn of civil and criminal courts. This included the city court of Brooklyn and a court of record, the judge of which was elected in May 1850, for a term of six years. After 1870 the city court had three judges.

In contemporaneous times the bench and bar of Kings county has been rich in its association with the names of some of the most distinguished members of the profession in the State of New York. Foremost among them have been Judge Calvin E. Pratt, of the supreme court; Chief Judge Edgar M. Cullen, of the court of appeals; Judge Willard Bartlett, of the court of appeals; Judge Henry A. Moore, who has been on the bench of the county court from 1871 to 1896; George B. Abbott, surrogate; Chief Judge Nathaniel H. Clement, of the city court; Justice Augustus Van Wyck, of the city court; Justice William J. Osborn, of the city court; Benjamin D. Silliman, who from the time of his admission to practice in 1829 until his death in 1900 was one of the foremost lawyers of his day; Judge Benjamin F. Tracy, a justice of the state court of appeals, and secretary of the navy under President Harrison; Judge Jasper W. Gilbert, of the State supreme court; Judge John Winslow, of the State supreme court; Judge William J. Gaynor, of the State supreme court and mayor of the city of New York in 1910; Isaac S. Catlin, Mark D. Wilbur, Thomas G. Shearman, Thomas E. Pearsall, Samuel D. Morris, Edward M. Shepard,

## LEGAL AND JUDICIAL

Horatio C. King, Mirabeau L. Towns, Martin Littleton; William C. DeWitt, Anthony Barrett, Foster L. Backus; and the list might be still further extended by the addition of scores of other names scarcely less conspicuous than those which have been here set down.

Under the Duke's Laws the judicial officers of the West Riding or Kings county were John Manning, Richard Betts, Samuel Spicer, James Hubbard, Elbert Elbertsen, Jacques Cortelyou and Rulof Martin.

Under the commission of Governor Andros, 1688, the justices were Stephen Van Cortlandt, Jacques Cortelyou, Gerardus Beeckman, William Morris and Nicholas Stillwell.

Under the law of 1691 and the ordinance of 1699, Gerardus Beeckman was justice of the court. From 1700 to the close of the revolution, judges of the common pleas with the dates of their appointment were: Jacobus Van Cortlandt, 1702; Nicholas Stillwell, 1710; Cornelius Seabring, 1716; Cornelius Van Brunt, 1718; Peter Strycker, 1720; Daniel Polhemus, 1722; Peter Cortelyou, 1724; Samuel Garretson, 1729; Ryck Suydam, 1732; Christopher Codwise, 1738, Johannes Lott, 1742; Abraham Lott, 1745; Isaac Seabring, 1749-52; Samuel Gerretse, 1749; Barnabus Ryder, 1749; Charles De Bevoise, 1752-61; Abraham Schenck, 1767; John Lefferts, 1770; John Lefferts, Jeremiah Remsen and Philip Nagil, 1770-77; Englebert Lott, Jeremiah Vanderbilt and Theodorus Polhemus, 1777-80.

After the revolution the judges, until the constitution of 1846, with the dates of their election or appointment were: Nicholas Cowenhoven, 1785; Johannes E. Lott, 1793; John Skillman, 1805; William Furman, 1808; Leffert Lefferts, 1823; Peter Radcliff, 1827; John Dikeman, 1830; Nathan B. Morse,

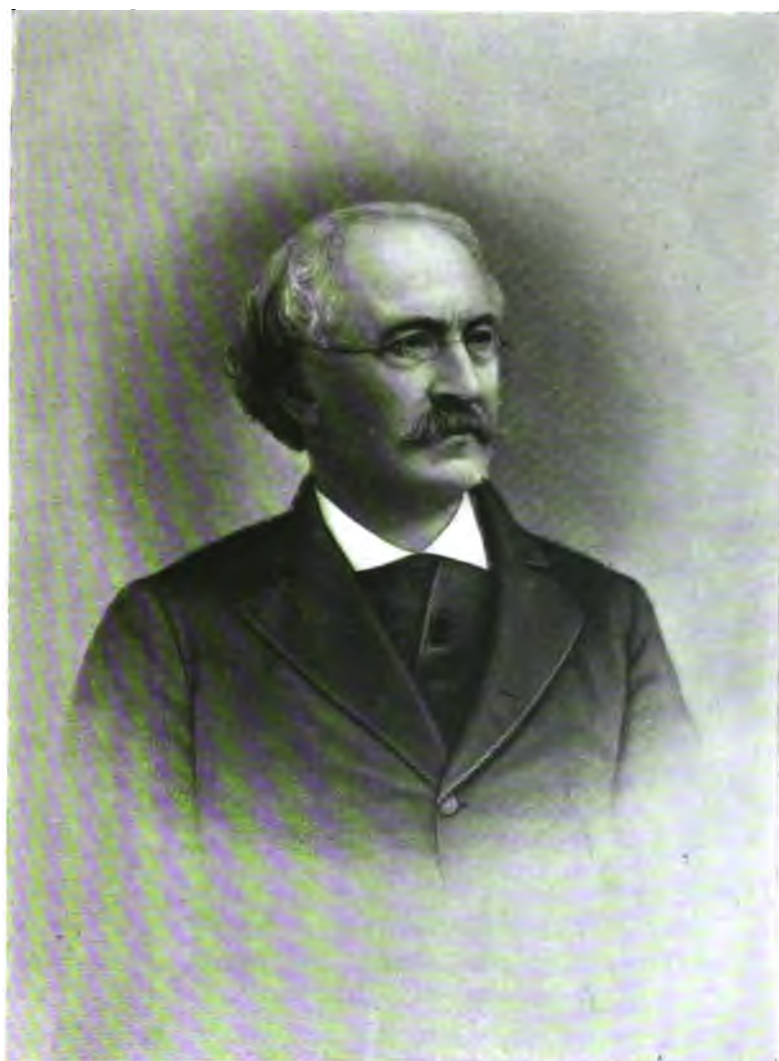


JOHN K. PORTER.

(1819-1892).

Eminent Lawyer and Judge: Member of Constitutional Convention of 1846; Judge of the Court of Appeals, 1864-68; counsel for Henry Ward Beecher in Tilton suit; counsel for prosecution of Guiteau for assassination of President Garfield.

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John K. Porter



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1833; John A. Lott, 1838; John Greenwood, 1843; John Vanderbilt, 1844.

County judges from the time of the constitution of 1846 until the present time with the dates of their election or appointment have been: Samuel E. Johnson, 1848; Henry A. Moore, 1851; Samuel D. Morris, 1855; Samuel Garrison, 1859; John Dikeman, 1863; James Troy, 1867; Henry A. Moore, 1871; Joseph Aspinall, 1896; Norman S. Dike and L. L. Fawsett, 1907.

District attorneys since 1801 with the dates of their election or appointment have been: Richard Ryker, 1801; Cadwallader D. Colden, 1810; Richard Ryker, 1811; Barent Gardiner, 1813; Thomas S. Lester, 1815; James B. Clark, 1819; Nathan B. Morse, 1830; William Rockwell, 1833; Nathan B. Morse, 1839; Harmanus B. Duryea, 1847; Richard C. Underhill, 1853; John G. Schumaker, 1856; John Winslow, 1859; Samuel D. Morris, 1862; Winchester Britton, 1871; Thomas H. Rodman, 1874; John Winslow, 1874; Winchester Britton, 1874; Isaac S. Catlin, 1877; Jas. W. Ridgeway, 1883; Foster L. Backus, 1896; Josiah T. Marean, 1897; Hiram R. Steel, 1898; John F. Clarke, 1899.

After the revolution Johannes E. Lott was the first surrogate, appointed April 6, 1787. His successors have been, James Lefferts, 1793; William Livingston, 1800; John C. Vanderveer, 1814; Jeremiah Lott, 1814; Richard Cornwell, 1832; Alden Spooner, 1841; Alonzo G. Hammond, 1845; Andrew B. Hodges, 1847; Jesse C. Smith, 1850; Rodman B. Dawson, 1854; Roswell C. Brainard, 1858; William D. Vedder, 1866; Walter L. Livingston, 1876; Abraham H. Daily, 1877; and Walter L. Livingston, 1877; Jacob I. Bergen, 1882; Abraham Lott, 1885; Geo. B. Abbott; James C. Church, 1902; Herbert T. Ketcham, 1908.

## LEGAL AND JUDICIAL

### DUTCHESS COUNTY

Dutchess county was one of the original ten counties erected by act of the Colonial Assembly in 1683. By that act, courts of session were ordered to be held in this as in other counties, for the trial of all causes, civil and criminal. In 1691 and 1699 the functions of this court were confined to criminal matters, while the civil cases were transferred to the court of common pleas in each county. It was not, however, until thirty-seven years after its formation as a county that Dutchess had a court of common pleas. Previous to that time it was associated with Ulster county in a joint court of common pleas.

On July 21, 1715, the Assembly authorized the construction of a county house and prison in Poughkeepsie, but these buildings do not appear to have been completed until nearly thirty years later. On July 6, 1720, Governor William Burnet issued an ordinance for establishing courts of common pleas and general sessions of the peace in the county.

Pursuant to the act of 1715, a meeting was held at the home of Leonard Lewis in "Pockepsen," June 22, 1717. At this meeting Captain Barendt Van Kleeck and Jacobus Van der Bogart were chosen commissioners to superintend the work of building. The meeting was summoned by an order signed by Lewis Leonard, Barendt Van Kleeck and Johannes Terboss. The order commanded Cornelis Van der Bogart to summon the people to attend. The certificate of the result of the meeting was signed by Lewis Leonard as judge, and Barendt Van Kleeck and Machill Palma-teer, justices.

The land on which this first court house was erected and which was the site of the county court house of modern times, was conveyed by deed in 1718 by Henry Van der Bogart to

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Barendt Van Kleeck. Although measures were taken to erect the building in 1715, the structure was not put up and completed until 1745. Its final construction was again authorized by the provincial legislature in 1743, and it was built under the supervision of the board of commissioners, of whom Henry Livingston was chief. Mr. Livingston had his authority to receive and disburse the money raised for construction purposes from the justices of the peace of the several precincts of the county. The document was signed by Justices Jacobus Swartwout, Francis Filkin, Laurence Van Kleeck, John Montross, Mordica Leffert, John Tripp, James Duncan and John Brinkerhoff.

To pay for the building of the court house, the precincts were assessed according to their population and valuation. About \$18,000 was required, of which Rhinebeck, which was then the most populous and wealthy town in the country, paid nearly \$5,000; Rombout, \$4,000; and Poughkeepsie a little less than \$2,500. In 1760 an act authorized the conversion of one of the jury rooms into a jail, and four years after that time money was raised to complete this arrangement.

In 1785 this colonial court house was burned, but in April of the same year measures were taken for its reconstruction, \$7,500 being appropriated for that purpose. Cornelius Humphrey, Peter Tappen and Gilbert Livingston constituted the building committee. A further appropriation of ten thousand dollars in 1786 and \$6,500 in 1787 was required before the building was completed. While the county was thus without a court house and jail, the prisoners were sent to the jail of the adjoining county of Ulster for safe keeping. It was in this second court house that the state convention met on June 17, 1788, to deliberate on the new constitution.

The second court house, located on the site of the first, was

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built of stone, in the old Dutch style of architecture, and was surrounded by a picket fence. The jail was in the north end and contained two tiers of arched cells, the first underground, where prisoners charged with the higher crimes were placed. The southern half was occupied by Mr. Hatch as a tavern. Here the judges and jurors boarded during the sessions of the court. It was no uncommon thing to see "the court", jury, counsel, sheriff, constables, prisoners, and all, adjourn to Mr. Hatch's bar for drinks. On one of these social occasions the prisoner, a horse thief, slipped away from his custodians. When the judge resumed his seat the fact was made known to him. At first he said nothing, but appeared to be in deep thought. Finally he arose, and with more than his usual gravity delivered himself as follows:

"Gentlemen of the jury—I am told that the prisoner has informally taken leave of the court, and gone the sheriff knows not whither. This gives the case before you a more complex phase as the statutes distinctly provide that the prisoner shall at no time, during the trial, sentence or punishment, absent himself from the officers of law. Therefore it only remains for me to say, that further prosecution in this case must be postponed until the return of the d—d scoundrel who has thus informally trifled with the dignity of the court and the people of the State of New York."

This building was destroyed by fire on the night of Thursday, September 25, 1808, and the act was attributed to the criminal inmates of the jail, who were removed to the Farmer's Hotel, then kept by Amaziah Blakeslee on Cannon street, nearly opposite the Dutchess County Academy, which then occupied the modern site of St. Mary's Church. None of the public documents in the clerk's office were destroyed, and the October term of courts was held in the Reformed Dutch Church. An act for the reconstruction of the building was passed March 24, 1809, and \$12,000 was raised for that purpose. James Tallmadge, John B. Van Wyck and John Benthuyssen were commissioned to super-



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intend its erection. In 1810 \$13,000 additional were raised, and the building was completed soon after. It was a plain stone edifice fifty by one hundred feet, and its walls were covered with stucco in 1861. It contained the county clerk's office, which underwent some improvements in its interior arrangements in 1877-78, and the other county offices except that of surrogate which is in a small one story brick building immediately in its rear.

Originally the jail was in the same building, but in 1856 its condition was represented as extremely unfit for its purpose and unhealthy to its inmates. The present jail, which is in the rear of the Poughkeepsie National Bank and to the west of the rear part of the court house, is a brick structure and was erected in 1861 at a cost of \$10,901.51. The jail limits of Dutchess, as laid out pursuant to the order of the court of common pleas at the January term of 1809 by David Brooks, clerk of said court, Joseph C. Fields, sheriff of said county, and James Tallmadge Jr., president of the trustees of the village of Poughkeepsie, comprised four and three-quarters acres. In former years, when imprisonment for debt was in vogue, fifty to sixty adjudged debtors have been known to circulate within these prescribed limits for months and in some instances for twenty years or more.

This court house and jail were succeeded in 1902 by the present commodious building. On the east side of this new edifice is a tablet which was put in place in 1904 by the Daughters of the American Revolution, and is appropriately inscribed in commemoration of the assembling of the constitutional convention of 1788 on this spot.

Among the earlier lawyers residing and practicing in the county, James Kent, the great chancellor, stands prominent. But

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others of the bench and bar have been distinguished in their day. Among them were Henry Beekman, Edward Livingston, Charles Ten Broeck, Henry B. Livingston, Francis A. Livingston, Augustus Schell, Nathaniel P. Tallmadge, James Emott, Henry Swift, Henry Angevine, Joseph F. Barnard, George G. Barnard, Homer A. Nelson, Allard Anthony, Charles Wheaton, and William I. Thorn.

County judges have been Leonard Lewis, 1716; Jacobus Terboss, 1739; Martinus Hoffman, 1749; Jacobus Terboss, 1755; Beverly Robinson, 1769; Ephraim Paine, 1778; Zephaniah Platt, 1781; David Brooks, 1795; John Johnston, 1807; James Emott, 1817; Marturin Livingston, 1823; Daniel C. Ver Planck, 1828; Edmund H. Pendleton, 1830; Joseph I. Jackson, 1840; Seward Barculo, 1845; Abraham Bockee, 1846; John Rowley, 1846; John Rowley, 1847; Egbert Q. Eldridge, 1851; Homer A. Nelson, 1855; Charles Wheaton, 1863; Allard Anthony, 1867; Henry M. Taylor, 1871; B. Platt Carpenter, 1877; Daniel W. Guernsey, 1884; Daniel W. Guernsey, 1890; Samuel K. Phillips, 1896; Samuel K. Phillips, 1902; Frank Hasbrouck, 1908.

Surrogates have been: Gilbert Livingston, 1778; Anthony Hoffman, 1785; Gilbert Livingston, 1787; James Tallmadge, Jr., 1804; Thomas J. Oakley, 1810; George Bloom, 1811; Philo Ruggles, 1813; Derrick B. Stockholm, 1815; John Brush, 1819; Ebenezer Nye, 1821; James Hooker, 1828; Robert Wilkinson, 1840; Virgil D. Bonesteel, 1844; John P. H. Tallman, 1847; Edgar Thorn, 1855; Peter Dorland, 1859; Milton A. Fowler, 1867; Peter Dorland, 1871; Collins Sheldon, 1877; Horace D. Hufcut, 1884; Cyrenus P. Dorland, 1890; Cyrenus P. Dorland, 1896; Willet E. Hoysradt, 1902; Charles A. Hopkins, 1908.

District attorneys have been: Jacob Radcliff, 1796; Smith Thompson, 1801; Randall S. Street, 1810; Samuel Hawkins,

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1811; Randall S. Street, 1813; George Bloom, 1815; George Bloom, 1818; Philo Ruggles, 1819; Francis A. Livingston, 1821; Stephen Cleveland, 1826; George A. Schufeldt, 1836; E. M. Swift, 1843; William Eno, 1845; Joseph T. Lee, 1847; James Emott, Jr., 1849; Thomas C. Campbell, 1849; Silas Wodell, 1855; Benjamin Platt Carpenter, 1858; Allard Anthony, 1860; Allard Anthony, 1865; William I. Thorn, 1868; Tristram Coffin, 1871; James L. Williams, 1874; William R. Woodin, 1877; William R. Woodin, 1880; John Hackett, 1883; John Hackett, 1886; Martin Heermance, 1889; Horace D. Hufcut, 1892; George Wood, 1895; George Wood, 1898; William R. Lee, 1901; William R. Lee, 1904; John E. March, 1907, and John E. Mack, 1910.

### ORANGE COUNTY

Although Orange county was actually organized in 1683, practically there was no real organization until 1703, when the first session of the court and the first meeting of the justices was held. The record book of the county contains this entry: "Register kept for Orange County, began ye 5th day of April, anno domini 1703". The earlier records of the territory comprised in the county were kept in New York. Minie Johannes was the first sheriff, in 1685, and he was succeeded by Floris Willemsen Crom in 1690, Stanley Handcock in 1694, John Patterson in 1699, and Theunis Toleman in 1791. William Merritt was the first judge of the court of common pleas in 1701, and the first session of that court was held in Orangetown, April 28, 1703, with William Merritt and John Merritt, judges.

At the first court of sessions held by justices of the peace, April 5, 1703, an examination of the "common gaol of the

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county" was ordered, and directions were given to complete the same. From this it would appear that prior to this date the county had a jail, but nothing further is known about it. By act of the assembly of December 16, 1737, authority was given to the justices "to build a court house and gaol for the said county at Goshen". At that time the courts in Newburg were held in the academy building, the upper floor of which had been especially fitted for this purpose.

The building in Goshen was completed in 1740. It was constructed of wood and stone, was repaired in 1754, and was torn down in 1775 or 1776. Then a new stone court house was erected on the site afterwards occupied by the office of the county clerk in Goshen. Part of the dungeon wall of this structure afterwards formed the south end wall of the building known as the Orange Hotel. Meantime in Orangetown the old court house which had existed before 1703 was replaced by another structure in 1704, the expense being borne by the southern part of the county. Subsequently this building was destroyed by fire.

Upon the reorganization of the county under the act of 1795, Goshen remained the county seat, with its court house and jail. As originally constructed the court house was two stories high. On the first floor was a hall in the center with the sheriff's office and dwelling rooms on the west, a jail on the southeast, and a staircase on the northeast. The court room was at the west end of the second floor, and on the southeast side were cells for minor offenders. The building was plain, and without the customary belfry. Two of its windows, larger than the others, were arched, one over the front door on the north side and the other directly opposite on the south side. Worked conspicuously in brick on the east wall was the date 1773. Tradi-

## *HISTORY OF NEW YORK*

tion has it that a British crown stone was intended for this place, but that Gabriel Wisner, a sturdy patriot who was a justice of the peace, would not allow the crown stone to be placed in position. Securing the stone, he placed it to the wall as if to adjust it, and then suddenly struck it with a hammer breaking it into fragments. During the revolution, political offenders or tories, and prisoners of all grades were confined in this jail, which was greatly overcrowded.

About the beginning of the nineteenth century the building was changed by the addition of a third story and a cupola with a bell. On the new floor was a large or main jail room at the southeast corner, and adjoining it on the north side was a dungeon with one grated window so arranged that it could be completely darkened. A large hall separated the rooms on the east side from the jail rooms on the west, and from three other rooms which were occupied by the county clerk, the surrogate, a jailor, and sometimes by prisoners. No basement existed under the building. When prisoners died who happened to be confined for debt, they were buried under the floor, or, if they died while confined to the gaol limits, they were buried in the prison yard. Public executions took place just outside the court house walls.

The court houses later in use in Newburg and in Goshen were erected in 1842. For many years the question of a new county had been agitated by the people of Newburg and the northeastern towns, and the erection of the new court house was the result of a compromise to prevent the division of the county. In 1839 the supervisors applied to the legislature for authority to build a new court house in Goshen, but this scheme was defeated by the people of Newburg. In December of the same year the supervisors decided to apply to the legislature for permission to build

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a court house and jail in Goshen, and a court house and cells at Newburg, \$17,000 to be expended on the former and \$13,000 on the latter. The act applied for was passed by the legislature in April, 1841, and the buildings in the two towns were soon after completed. The basement of the court house in Newburg was devoted to cells, but in Goshen the county jail was a separate building. The site of the Newburg court house was enlarged to an open square, the land for which was purchased by the private subscriptions of citizens.

On the records of the bench and bar of Orange county are the names of many who have given distinction to their profession and have been noted in the public life of the State and nation. Foremost among them would be ranked George Clinton, who was the first governor of the State under the constitution of 1777, who died while vice-president of the United States, and of whom it has been well said, that "he was to the State of New York what Washington was to the nation." Other distinguished lawyers of the colonial period were John Alsop, 1727; John Chambers, 1735; David Matthews, 1760, who was afterwards mayor of the city of New York; William Thompson, 1773; Phineas Bowman, 1790; Jonathan Fisk, member of congress in 1809 and 1814; Jonas Storey, 1801; Henry G. Wisner, 1802; John Duer, 1807, presiding justice of the superior court of the city of New York in 1857; Ogden Hoffman, 1818, district attorney of Orange county, member of the state assembly, member of congress, United States district attorney, and attorney general of the state from 1854 to 1855; Isaac R. Van Duzer, 1823, and William C. Hasbrouck, 1826.

Judges of the court of common pleas from 1701 were: William Merritt, 1701; John Merritt, 1702; John Corbet, 1710; Peter Haring, 1717; Cornelius Haring, 1717; Vincent Matthews, 1733;

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James Jackson, 1735; Vincent Matthews, 1737; Abraham Peter Haring, 1739; Abraham Haring, Jr., 1749; Michael Jackson, 1769; John Haring, 1774; John Coe, 1775; John Haring, 1778; William Thompson, 1788; Nathan H. White, 1807; Samuel S. Seward, 1823; Gilbert O. Fowler, 1833; Horace W. Elliott, 1836; Goldsmith Denniston, 1841; Allen M. Sherman, 1846.

Judges of the county court have been: David W. Bates, 1847; John G. Wilkin, 1851; Benjamin F. Duryea, 1855; John J. Monell, 1859; David F. Gedney, 1863; Thomas George, 1867; Stephen W. Fullerton, 1871; Charles F. Brown, 1877.

Special county judges have been: John G. Wilkin; Robert Proudfit, Jr., 1852; Charles Borland, 1855; James W. Taylor, 1856; E. Gedney Van Duzer, 1859; James W. Taylor and George W. Greene, 1861; J. Hallock Drake, 1864; James W. Taylor, 1866; William J. Groo, 1869; Theron H. Little, 1872; Michael H. Hirschberg, 1875; Obediah P. Howell, 1878; John J. Beatie, 1881.

Surrogates have been: Henry Ludlow, 1727; the court of common pleas, 1750; William Finn, 1754; John Gale, 1759; Edward Smith, 1762; Benjamin Tusten, Jr., 1778; James Everett, 1779; Edward Ely, 1815; Job Noble, 1820; Edward Ely, 1821; Wheeler Case, 1823; Daniel H. Tuthill, 1827; John B. Booth, 1831; George M. Grier, 1840; Charles Borland, 1844; Benjamin F. Duryea, 1847; James W. Fowler, 1851; John C. McConnell, 1855; David A. Scott, 1859; Gilbert O. Hulse, 1867; Henry A. Wadsworth, 1871.

District attorneys have been: Samuel R. Betts, 1818; Henry G. Wisner, 1820; Ogden H. Hoffman, 1823; Charles Borland, 1826; Isaac R. Van Duzer, 1829; Samuel J. Wilkin, 1835; Charles Borland, Jr., 1835; Nathan Westcott, 1841; Hugh B. Bull, 1847; Charles H. Winfield, 1850; David F. Gedney, 1856; Charles C.

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McQuoid, 1859; Abram S. Cassedy, 1862; J. Hallock Drake, 1865; Stephen W. Fullerton, 1868; Lewis E. Carr, 1871; Charles F. Brown, 1874; Walter C. Anthony, 1877.

### QUEENS COUNTY

At the session of the general assembly in 1683, Queens county was created from what had been previously the Yorkshire Riding, and in 1691 the courts of common pleas and general sessions were organized more definitely than they had been before. Previous to that time, and, as a matter of fact, throughout the succeeding colonial period of the seventeenth century, the records of the administration of justice in the county are part of the history of the colony of New Netherland and New York. Few records of the county court proceedings have escaped the devastation of time, although minutes of the common pleas and general sessions from 1720 to 1774 have been preserved, and a volume of minutes of the supreme court and oyer and terminer from 1722 to 1746, by Judge Lewis Morris.

In the early years of the county, crimes of a serious character were little known. Breakers of the law were dealt with quickly, and generally given to understand that their presence in the towns of the county was altogether undesirable. Overseers of the town could inflict the minor punishments, and as for the rest, offenders were generally turned over to the authorities in New Amsterdam or New York. Before 1670 there was no jail in the county, and criminals who were sentenced to imprisonment were sent to New York. Those guilty of small offences were banished, whipped, set in stocks, or branded. For minor offences the towns had "a cage for brief imprisonments".

In January, 1666, the sessions house and prison was built in Jamaica, and the people of Jamaica agreed to keep it in repairs



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for twenty-one years on condition that they were allowed to use it as a house of worship on Sunday. This county hall and common jail lasted for more than a half century, but in 1710 the necessity for repairs to it were such that the supervisors were authorized to sell it and purchase new buildings. Nothing in this direction appears to have been done, however, for as late as 1724 the assembly passed an act authorizing the justices to repair, finish and complete the buildings as they stood. The prison had become completely dilapidated; in 1738 two prisoners broke jail and such occurrences were after that not infrequent.

During the revolution the British troops tore down the old court house and carried off its materials to construct barracks and huts for the soldiers stationed in and around Jamaica. When peace was concluded in 1783, the county had no jail for prisoners, and was obliged to keep them under militia guard temporarily and then send them to New York to be locked up. In 1784 the old stone Presbyterian church in Jamaica was used as a court house, and there two robbers who had been brought for trial were sentenced to be hanged. In that year agitation concerning the site for the new jail and court house began. Some people wished it to be put upon Hempstead Plains, while others preferred a location on or near the old site in Jamaica.

On March 3, 1785, the legislature decided upon the geographical center for the county seat and authorized the construction of the court house and jail "within a mile of the Wind-Mill Pond, at or near the house of Benjamin Cheeseman near the south bounds of North Hempstead" and "that until it be complete courts shall be held in Jamaica." The work was finished in 1787 and then the Queens county prisoners were removed from the jail in New York to the new county jail. In February, 1790, the first capital trial was held in the new court

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house before Judge Robert Yates, of the State supreme court, when two female negro slaves were convicted of arson and sentenced to be hanged on Friday, October, 15, "at some public place in the neighborhood of the court house."

Court proceedings in those days were not always attended by the sobriety and good order which characterizes them in later days.

"On court days there was usually considerable excitement about the house and grounds. Farmers and others often made a holiday of it. Many resorted thither to transact business and meet acquaintances. Stands and booths for the sale of oysters, cake and beer, and other refreshments abounded. Hilarity went beyond due bounds, according to a complaint made to General Jay by Cadwallader D. Colden, assistant attorney general (January 29th, 1799) wherein he says that 'The court of Queens county is at all times the least orderly of any court I ever was in. The entry of the court house is lined on court days with the stalls of dram sellers and filled with drunken people, so as to be almost impassable.' About 1825-27 when the sheriff was prohibited from selling liquors in the court house, he evaded the law by erecting a shed against the front of the building, and so sold liquors and passed it through a window into the court house."

Since 1874, Long Island City has been the county seat. The superior transit service pertaining to Long Island City long ago made that place permanently more desirable for the conveniences of the courts and parties engaged in litigation. For several years the question of transferring the county seat was under consideration, and was a constant source of political maneuvering throughout the county and before the legislature in Albany. Finally, the efforts of Long Island City were successful, and the legislature decided in 1872 that the new county building should there be erected. To supervise the work the following commissioners were appointed: Edward A. Lawrence, Carmen Cornelius, Robert Burroughs, Isaac Coles, Isaac H. Cocks, George H. Hunter and

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1. "History of Queens County," New York, 1882, p. 52.

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James Nostrand. By these commissioners the building was erected and inclosed, but it was not carried to completion until 1876.

The court house, standing upon the square at the junction of Thomson and Jackson avenues, is the most imposing structure in the city. Its original estimated cost was \$150,000, but in 1875 the legislature was compelled to vote \$100,000 additional, and took the building out of the hands of the commissioners and placed it with the board of supervisors of the county which consisted of Edward A. Lawrence, Robert Burroughs, John H. Brinkerhoff, George S. Downing, James Bradley, Samuel Willets and Ebenezer Kellum. In all the entire cost of the building was \$276,000, and it was formally occupied by the sheriff in April 1877.

The edifice, three stories high, is of Roman architecture and is built of brick with granite trimmings. On the first floor are the rooms of the sheriff and the supervisors, with vaults and reception rooms. On the second floor is the court room with the judges' rooms, waiting rooms and rooms for the jurors, grand jury and district attorney. The jail is in the rear.

County judges from 1691 to the present time, with the dates of their appointment or election, have been Thomas Hicks, 1691; John Coe, 1699; Thomas Willett, 1702; John Coe, 1710; Thomas Willett, 1723; Isaac Hicks, 1730; David Jones, 1734; Isaac Hicks, 1738; James Hazzard, 1740; Thomas Hicks, 1748; John Lloyd, 1784; Benjamin Coe, 1793; John W. Seaman, 1806; Cary Dunn, Jr., 1809; Effingham Lawrence, 1818; James Lent, 1823; Singleton Mitchell, 1829; Benjamin W. Strong, 1834; David S. Jones, 1840; Henry I. Hagner, 1843; Isaac E. Haviland, 1846; William J. Cogswell, 1849; Morris Fosdick, 1849; Elias J. Beach, 1857; John J. Armstrong, 1865.

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Surrogates from 1721 until the present time, with the dates of their appointment or election, have been John Bridges, 1721; John Messenger, 1735; Samuel Clowes, Jr., 1748; Thomas Braine, 1754; Samuel Clowes, 1759; Edward Dawson, 1767; James Robinson, 1784; David Lamberson, Jr., 1816; John D. Ditmis, 1820; John W. Seaman, 1821; Nicholas Wyckoff, 1826; Henry I. Hagner, 1834; William J. Cogswell, 1849; Morris Fosdick, 1849; William H. Onderdonk, 1865; James W. Covert, 1869; Alexander Hagner, 1873; Garret J. Garretson, 1880; Charles DeKay Townsend, 1880.

Before the beginning of the nineteenth century, when the attorney general of the State or his assistant officiated in the courts as district attorney, Nathaniel Lawrence had that position in Queens, February 16, 1796. In and after 1818 the county had its own prosecuting officers, taking office as follows: Eliphalet Wickes, 1818; William T. McCoun, 1821; Benjamin F. Thompson, 1826; William H. Barroll, 1836; Alexander Hadden, 1842; John G. Lamberson, 1847; William H. Onderdonk, 1853; John J. Armstrong, 1859; and Benjamin W. Downing, 1866.

### RICHMOND COUNTY

In 1683, Governor Dongan established New York, Kings, Queens and Richmond counties. Stony Brook was then selected as the county seat of Richmond. In public exercises which were held at Stony Brook on the occasion of the Hudson-Fulton Celebration in 1909, the Honorable Stephen D. Stephens, county judge and surrogate, made an address reviewing the history of the bench and bar of the county. From that address has been drawn, by permission, the material which makes up the following

## HISTORY OF NEW YORK

account of the legal and judicial record of that part of New York state.

At Stony Brook, the first court house and the county jail were located in a small one-story structure containing two rooms. One of these rooms, built of roughly-hewn logs filled in with clay and shell-lime, served as the jail. The only door to it was built of rough boards, hung on raw-hide hinges, and opened outward. A window about a foot square, which the prisoners could regulate for their own comfort by filling it with brush, when the rain, snow, or cold crept in, was the only other opening.

The jail contained a ground floor, and the furniture consisted of a bench-like log which extended along the rear of the room. The lock was made of strips of rawhide which were tied on the outside. But the dignity of the law was so frequently trampled upon by the escape of prisoners, through the assistance of outside friends, that the presiding judge directed the county officials to "forthwith purchase a more substantial lock, and to procure a bell wherewith to give alarm in case there should be any further attempt of prisoners to escape from ye said jail."

Accordingly, an appropriation to meet a portion of the pressing need was made. The room adjoining the jail was built of stone and was occupied by the sheriff, who was also the jailor. In this room, too, the court business of the county was frequently transacted, but the meagre accommodations it afforded rendered it necessary to hold court at various other points on the island.

The legal business of the county centered in Stony Brook until the early years of the eighteenth century; then it was decided to abandon the court house and jail at Stony Brook and to establish one more in keeping with the progress of the age at Cuckholdstowne, now Richmond. Accordingly, in 1729, the county seat was transferred there, where it has continued to remain ever since.

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The first mention of any judges by name is that of Ellis Duxbury, in 1691, who was judge of the county court and Walter Dongan, in 1733, who was surrogate. These two offices continued to be filled by appointment from time to time until, under the constitution of 1846, the two were combined into one office, which was made elective. In 1847 Henry B. Metcalfe was elected the first county judge and surrogate, which office he held continuously until 1875, at which time he resigned to take his seat as a member of congress. Judge Metcalfe died at a ripe old age, and respected by all who knew him, in 1881. He was succeeded by Tompkins Westervelt, a lawyer of ability, who held the office for one term of six years. In 1881 Stephen D. Stephens was elected to the office which he has held continuously to the present time, a period of almost twenty-eight years.

The election of Lester W. Clark, in 1906, drew from Richmond county its first representative on the supreme court bench. Other distinguished members of the bar were resident in Staten Island in early years. Between 1820 and 1830, Judge Ogden Edwards, a grandson of Jonathan Edwards, the eminent divine and president of Princeton College, and a cousin of Aaron Burr, came there; he was a brilliant lawyer and sustained the honorable reputation of his illustrious ancestors.

In his celebration address, Judge Stephens referred in the following appreciative terms to the practitioners who have made Staten Island noted in the jurisprudence of the State:

"From the days of Ellis Duxbury and Walter Dongan, the bench in Richmond county has been occupied and honored, and the bar has been represented by men whose ability and integrity have been equal to any and second to none in this great country, and never once has the ermine been tarnished in any manner whatever by any act of any judicial officer who has worn it."

Judges of the county courts, with the dates of their election

## HISTORY OF NEW YORK

or appointment, have been: Ellis Duxbury, 1691; Daniel Lake, 1710; Joseph Billop, 1711; Thomas Farmar, 1712; Richard Merrill, 1739; John LeConte, 1739; William Walton, 1756; Joseph Bedell, 1761; Benjamin Seaman, 1775; Paul Micheau, 1786; Gozen Ryerss, 1797; John J. Murray, 1802; John Garretson, 1803; Jacob Tysen, 1823; Henry B. Metcalfe, 1840; William Emerson, 1841; Albert Ward, 1844; Henry B. Metcalfe, 1847; Tompkins Westervelt, 1876; Stephen D. Stephens, 1881.

Surrogates, with the dates of their appointment or election, have been: Walter Dongan, 1733; Benjamin Seaman, 1759; Adrian Bancker, 1787; Abraham Bancker, 1792; John Housman, 1809; Cornelius Bedell, 1810; Jonathan Lewis, 1811; Cornelius Bedell, 1813; Tunis Egbert, 1815; Richard Conner, 1820; John Garretson, 1820; Tunis Egbert, 1821; Richard Crocheron, 1830; Lewis R. Marsh, 1843; Henry B. Metcalfe, 1847, and Tompkins Westervelt, 1876; Stephen D. Stephens, 1882.

District attorneys of the county since 1818, with the dates of their appointment or election, have been: George Metcalfe, 1818; Henry B. Metcalfe, 1826; Thomas S. Kingsland, 1833; George Catlin, 1839; Roderick N. Morrison, 1840; Lot C. Clarke, 1841; George Catlin, 1849; George White, 1850; Alfred DeGroot, 1850; Abraham W. Winant, 1850; John H. Hedley, 1865; Sidney F. Rawson, 1872; John Croak, 1875; John Gallagher, 1881.

### WESTCHESTER COUNTY

The early history of Westchester county is comprised in the general history of the colony and province of New Netherland and New York during the Dutch and the English regimes. As has been seen on the pages of the first volume of this work, as far back as early in the middle of the seventeenth century, the inhabitants of Westchester county received from the Dutch

## LEGAL AND JUDICIAL

the same privileges of choosing their officers and of making and administering their own laws as had been previously granted to the freemen of the villages of Middleborough, Breuckelen, Midwout and Amersfoort. When New Netherland became New York these privileges of local government and local administration of laws were continued.

As originally constituted Westchester county had substantially the same boundaries that it had before its southern portion became part of the city of New York. It was erected November 1, 1683 by an act of the general assembly and this was confirmed by a later act of October, 1691. In 1683 Westchester was made the county town. By an act of the general assembly entitled "an act for the more orderly hearing and determining matters of controversy", etc., passed in October of that year, it was directed that courts of session for the county should be held on the first Tuesdays of June and December, one to be held in the village of Westchester and the other in the village of Eastchester. On the first Wednesday of December a court of oyer and terminer and general jail delivery was to be held.

The legal history of the county as individually distinct from the other counties of the State began in 1684. The first court of sessions as shown by the court records was held on June 3, 1684, in the year following the establishment of the county. It does not appear from the records who sat upon the bench as presiding or associate judges. In 1684 John Pell was appointed the first judge of the county. Following Judge John Pell, Caleb Heathcote was the next judge, holding that office from 1693 to 1720. William Willett, Frederick Phillipse, 1732-1734; Israel Honeywell, 1734-1737 and 1740-1743; Samuel Purdy, 1734-1737 and 1740-1752; John Thomas, 1737-1739 and 1765-1776; John Ward, 1737-1739 and 1752-1754; Lewis Morris, 1738-



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1739; William Leggett, 1752-1754; Nathaniel Underhill, 1755-1775; Jonathan Fowler, 1769-1771 and 1773-1775, appear by the court records to have been the presiding judges of the court during the colonial period.

Westchester remained the shire or county town until November 6, 1759, when the last session of the court of common pleas was held there. The *New York Post Boy* of February 13, 1758, contained the following item:

"New York, February 13—We hear from Westchester that on Saturday the 4th inst., the court house at that place was unfortunately burned to the ground. We have not heard how it happened."

The destruction of the court house and the necessity felt for a more central location for the county town, led to the assembly passing the following act on December 16, 1758:

"An act to empower the justices of the peace and aldermen of the borough of Westchester, in conjunction with the supervisors of the said county, to ascertain and fix the place for erecting a new court house and gaol for the said county; and for raising a sum not exceeding one thousand pounds, on the estates, real and personal, of all freeholders and inhabitants of the said county, for and towards erecting the said court house and gaol."

White Plains was selected as the place, and on November 7, 1759, the court of common pleas held its first session in the court house which had been erected in that town. Dr. Robert Graham gave to the county the land upon which the court house was erected, and from this time on White Plains became the business center of the county.

This court house was made famous in 1776 by the assembling there of the provincial convention of New York State on June 30, that year. On July 2 of that year the convention had been in session in New York, but as that city was threatened by the British, it was necessary to adjourn their meeting else-

1900

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**Edward Livingstone**



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ing house in Bedford, until the court house should be rebuilt, or until further orders of the legislature. The act of May 1, 1786, directed the erection of court houses in both White Plains and Bedford, and eighteen hundred pounds was appropriated for the purpose. Stephen Ward, Ebenezer Purdy, Thomas Thomas, Richard Hatfield and Richard Sacket, Jr., superintended their construction. The first session of the county court was held in Bedford court house January 28, 1788, and a session was held in White Plains on May 26 following. For many years the courts were held alternately at these places.

The second court house in White Plains, erected after the war had ended, was built on the same spot where its predecessor had stood. It was put up about 1784 or 1785, and it was a handsome structure for those times, two full stories with basement and attic. An imposing portico was on the front of the rectangular building, and the impediment of this portico was supported by four tall Grecian columns. A flight of steps at either end of this portico led to the main entrance of the building. The attic was under a hipped roof, and the center of the building was crowned by a square cupola, surmounted by a round dome which bore the customary weather-vane of the time.

In 1854, after three-score years and ten of usefulness, this second court house made way for a third court house and jail, the one which has been known to the present generation. It was erected under the superintendence of a committee appointed by the board of supervisors, consisting of Abraham Hatfield, States Barton, William Marshall, Jr., Daniel Hunt, and George G. Finch, and it cost the sum of \$120,000. It is a handsome stone structure of one story, standing near the center of the town on Railroad avenue. Extensions reach back from its street front, and a square cupola crowns the roof of its main sec-

## LEGAL AND JUDICIAL

tion. Within this building are the usual court rooms, county offices, sheriff's office, grand jury rooms, and other offices pertaining to the judicial administration of the county. Over the judges' bench in the court room is a portrait of Judge William Jay, placed there in grateful and appropriate recognition of the illustrious position which the name of Jay holds in the annals of Westchester jurisprudence.

Samuel Clowes was the first lawyer of whom any record can be obtained who practiced in the county. He was a Queens county man, and filled the office of clerk of that county from April 30, 1701, to July, 1710. Having moved to Westchester, he soon rose to prominence, and from 1717 to 1744 he was one of the leading attorneys of the Westchester bar and doubtless the first prosecuting attorney there. December 9, 1722, occurs the following entry in the court records of White Plains: "The Court of Gen'l Sessions appoints Mr. Samuel Clowes counsel for the King in all cases where he is not already concerned for the subject." After 1744, owing to his advanced age, he gave up the active practice of a profession in which he had risen to eminence, commanding the respect and admiration of his brother lawyers and of the people. He died, full of years, in Jamaica, Long Island, in 1760. In his will, which bears date of July 24, 1759, but was not offered for probate until August 28, 1760, he put down his age at eighty-five years and five months.

Another lawyer, whose name appears simultaneously with that of Mr. Clowes, in 1717, in connection with a number of proceedings in the court of common pleas, was one Vernon. His first name is omitted in the court records, and little is known of him beyond the fact that he practiced law until 1728. Mr. Murray and Mr. Jamison, are next mentioned—their first names being omitted—as practicing from 1719 to 1736. The former was prob-

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ably Joseph Murray, of New York, member of the colonial council from 1744-58. He died in 1758. Mr. Jamison was undoubtedly David Jamison, one of the patentees of Harrison's Purchase (the town of Harrison), and at one time chief justice of New Jersey and attorney general of New York. Mr. Wileman (Henry Wileman) practiced occasionally in the Westchester county courts from 1720 to 1725. John Chambers of New York, practiced in Westchester from 1724 to 1751. He was an able and successful lawyer, he and Mr. Clowes doing almost all the legal business in Westchester until Mr. Clowes retired, in 1744, when Chambers retained nearly all that they had previously had together.

Other lawyers, hailing principally from New York City or from Queens county, appeared frequently in the county courts in those early years. They were Whitehead, 1721; Costifin, 1728; Price, 1728; T. Smith (possibly Thomas Smith of New York, member of the committee of one hundred in 1775), whose name is frequently mentioned, 1727-69; Edward Blagge, 1728-32; Seymour, 1729; Lodge, 1731-56; Kelley, 1732-51; Warrol, 1732; White, 1740-41; Crannel, 1744, and Green, 1744-47.

Westchester has been second only to New York county in the high character of its legal profession, and the eminence that its members have attained upon the bench and at the bar. Some authorities would undoubtedly say that in this respect it has been scarcely second to the metropolis, and there would be abundant argument in support of such a contention. To review the careers of the famous judges and lawyers of Westchester would require many volumes. In fact, as it is, the history of their achievements and the accounts of their services to their State and country have already been recorded in many volumes. Even the briefest enumeration of their names in this connection will suffice to show the high and distinguished character of the bar of the county

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from its beginning at the close of the seventeenth century over the ensuing period of two hundred years.

There was Caleb Heathcote, proprietor of Heathcote Manor, who was a brilliant figure in the colonial period, and who exercised much and admirable influence in the formative period of the colony. He was mayor for three years, for a time commander of the military forces of the colony, and for six years preceding his death receiver general of the customs of all North America.

William Willett, who succeeded Colonel Heathcote as judge of the court of common pleas in 1721, was the son of Colonel Thomas Willett, of Flushing, Long Island, and a grandson of Thomas Willett, the first mayor of New York, who figured in the early judicial history of the colony. Many descendants in addition to this William Willett held, in subsequent years, prominent positions in the province, being high sheriffs, judges and mayors.

Israel Honeywell, who was judge of the court from 1734 to 1737 and again from 1740 to 1743, was one of the earliest settlers of the town of Westchester, where in addition to being judge he also held various local offices.

John Thomas, who was judge in 1737-1739 and again in 1765-1776, was one of the distinguished patriots of his day. He was a son of the Reverend John Thomas, who was the first rector of St. George's Church in Hempstead, Long Island, in 1704. The judge was one of the most prominent personages in Rye in the pre-revolutionary period, and his influence was unreservedly and powerfully in behalf of the patriot side. By reason of his activity he became particularly obnoxious to the British who made every effort to capture him. Finally, in 1777, they were successful, and he was taken at his house in Rye Woods, by a party of British troops, which was raiding the country. Carried to New York, he was put in prison and died soon after. He was buried in the Trinity church yard.



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William Leggett, of West Farms,—which was then part of the town and county of Westchester,—judge of the court in 1752-1754 was the son of Gabriel Leggett, of Essex county, England, who came to this country in 1661. He was mayor of the borough of Westchester in 1734.

Nathaniel Underhill, who was judge from 1755 to 1774, was the great-grandson of the redoubtable Captain John Underhill, the celebrated soldier who, after having served under the Prince or Orange in the Low countries, came to New England in 1630, where he made himself exceedingly useful to the colonists, and finally made himself exceedingly obnoxious to them by reason of his immoral conduct. Coming to New Netherland he was a thorn in the flesh of Director General Stuyvesant, but nevertheless in Long Island and Westchester proved himself to be most energetic and useful to the new colony, despite all that might be said against him. His descendant, Nathaniel Underhill, was mayor of the borough of Westchester in 1775, filled other offices, and died in 1784.

Another prominent patriot of the pre-revolutionary period, who was also a first judge of the county court, was Stephen Ward, of Eastchester, who was appointed in 1784. He was the son of Thomas Ward, of Eastchester, who was for a long time a member of the colonial assembly, and his grandfather was Thomas Ward of Fairfield, Connecticut. Stephen Ward was proscribed at an early period of the revolution by the loyalists and a price was set upon his head, but he managed to keep clear of his enemies. His home, however, was less fortunate. "Ward's House," as it was called, was the scene of repeated engagements between the Americans and the British, and finally it was burned by the British in 1778.

The Tompkins family of Scarsdale had several distin-

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guished representatives in the judiciary of the county. Jonathan G. Tompkins, of Scarsdale, was first judge from 1794 to 1797. He was a member of the State convention which adopted the Declaration of Independence and made the first constitution of the State. Under the State government, he was elected to the legislature, and served in that capacity during the entire period of the revolution. When the State University was instituted, he was appointed one of the regents, and held that position until he resigned in 1808. He was the son of Stephen Tompkins, whose ancestors came from the north of England, and was among the first settlers of Plymouth, Massachusetts. Caleb Tompkins, eldest son of Jonathan G. Tompkins, was first judge of the county court from 1808 to 1820, and again from 1823 to 1846. He held the office at the time of his death, at the age of eight-six years. He was a learned jurist and a man of great abilities.

Daniel D. Tompkins, a younger son of Judge Jonathan G. Tompkins, was born in Scarsdale, but his professional and public career was in large measure apart from the county of his nativity. He was a judge of the supreme court of the State, a member of congress from New York, governor of the State in 1807, and vice-president of the United States in 1817. His public service and his reputation were of State and national character. In Westchester legal history he is recorded as having been admitted to practice in the county September 26, 1797, and he appeared in the conduct of many cases in the county court between 1797 and 1806. Another member of this illustrious family was Joseph Warren Tompkins, son of George Washington Tompkins, and nephew of Governor Daniel D. Tompkins. Admitted to practice in 1825, his entire professional life was associated with the courts of Westchester and the adjoining counties of Putnam

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and Rockland. He had a large and lucrative professional business, was a strong advocate before a jury and in trial cases had few superiors.

Nehemiah Brown, who served two terms as county judge, was a lineal descendant of Peter Brown, one of the Pilgrims of Plymouth, Massachusetts. He belonged to the famous Brown family of Rye, and his ancestors were among the founders of that village. There he was born in 1775, and there he lived on the ancestral estate until his death in November 1855. In the war of 1812, he had a captain's commission and was detailed to assist in the fortification of Throgg's Neck and other points in the vicinity of New York. In 1824 he served as a member of the legislature, and for two terms sat as county judge on the bench with Judges William Jay and others of that period.

John Watts, who was a first judge of the court of common pleas from 1802 to 1807 was a native of New York City, and became more distinguished in the public life of the metropolis than in his associations with Westchester county. A staunch royalist he was particularly noted as royal recorder of New York in 1774, the last to hold that position. After the war, however, he accepted the new condition of things and from 1791 to 1794 was speaker of the assembly of New York. Afterwards he was a member of congress. His residence near the village of New Rochelle on the slope over-looking Hunter's Island served thoroughly to identify him and his family with the county.

Then there were the members of the Morris and the Jay families. Their careers made so much of the early history of their country that more than the mere recording of their names is uncalled for here. Judge Lewis Morris who added repute and fame to the family of which he was one of the greatest representatives; John Jay, first chief justice of the State supreme

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court and first chief justice of the United States supreme court; Richard Morris, of Morrisania; Gouverneur Morris, son of the Honorable Lewis Morris, an active patriot at the time of the revolution; William Jay, son of Judge John Jay, noted for his work in the great struggle against slavery; John Jay, son of William Jay, equally as famous as his father in the warfare against slavery and also distinguished as a diplomat.

Nor in modern times must Samuel J. Tilden be overlooked. To say that Mr. Tilden was the foremost member of the Westchester county bar in his day and generation is but to repeat a truism. The history of his public career in State and national affairs made him so conspicuous and well-known that it need not be dwelt upon in detail here. Descended from colonial ancestry, his ancestors were among the most noted of the early settlers of the colony of Massachusetts, one of them having been of the group of adventurers of London who fitted out the Mayflower. As a lawyer, Mr. Tilden's professional energies were more active in New York city than in Westchester county, and in political affairs his life was devoted to the State of New York and its metropolis, and to national affairs when he was the candidate of the Democratic party for the presidency. His home at Graystone, in the northern part of Yonkers, on the banks of the Hudson, identifies him more conspicuously with Westchester county.

What was written a third of a century ago concerning the profession in the county for the preceding two centuries and a half has been equally borne out by the records of the years since that time. To quote from an able historian of the subject at that time:

"Its judges, at least in the past, have been learned, upright and faithful to duty. There is neither record nor tradition that any of them ever

## HISTORY OF NEW YORK

was guilty of corrupt or improper conduct in his position. Each has left the ermine unsullied. The lawyers, as a class, have been exceptionally able, dignified, courteous, industrious and true to the interests of their clients and trusted counsellors of the court. Many of them, as Benjamin Nicoll, Timothy Wetmore, Richard Morris, Gouverneur Morris, John Jay, Philip Pell, Richard Hatfield, John Strang, Peter Jay Monroe, Edward Thomas, Martin S. Wilkins, Daniel D. Tompkins, William Nelson, Minott Mitchell, Richard R. Voris, Joseph Warren Tompkins, Albert Lockwood, John J. Clapp, Jonathan Henry Ferris, Amherst Wight, Jr., and Isaiah T. Williams, were lawyers of unusual ability and high repute. By their careers at the bar, they honored the legal profession, and remained bright examples for the emulation of their successors.<sup>1</sup>

First judges of the court of common pleas of the county court in the colonial period with the dates of their appointment were: Caleb Heathcote, 1695; William Willett, 1721; Frederick Phillipse, 1735; Samuel Purdy, 1752; John Thomas, 1755.

Under the State constitutions of 1777 and 1821, the judges of the county court with the dates of their appointment were: Lewis Morris, 1777; Robert Graham, 1778; Stephen Ward, 1784; Ebenezer Lockwood, 1791; Jonathan G. Tompkins, 1793; Ebenezer Purdy, 1797; Jonathan G. Tompkins, 1798; Elijah Lee, 1802; John Watts, 1802; Caleb Tompkins, 1807; William Jay, 1820; Caleb Tompkins, 1823; Robert S. Hart, 1846; Albert Lockwood, 1847.

Under the constitution of 1846 the county judges with the dates of their appointment have been: John W. Mills, 1851; William H. Robertson, 1855; Robert Cochran, 1867; Silas D. Gifford, 1871; Isaac N. Mills, 1883.

Colonial surrogates with dates of their appointment were: Gilbert Willet, 1730; John Bartow, 1754; Caleb Fowler, 1761; David Daton, 1766.

Surrogates under the constitutions of 1777, 1821 and 1846

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1. "The Bench and Bar," by Isaac N. Mills, in "History of Westchester County, New York," by J. Thomas Scharf, vol. I, p. 550.

## LEGAL AND JUDICIAL

with the dates of their appointment have been: Richard Hatfield, 1778; Philip Pell, Jr., 1787; Samuel Youngs, 1800; Edward Thomas, 1802; Samuel Youngs, 1807; Ezra Lockwood, 1808; Samuel Youngs, 1810; Ezra Lockwood, 1811; Samuel Youngs, 1813; Henry White, 1815; Samuel Youngs, 1819; Ebenezer White, Jr., 1821; Jonathan Ward, 1828; Alexander H. Wells, 1840; Frederick J. Coffin, 1844; Lewis C. Platt, 1847; Robert H. Coles, 1855; Silas D. Gifford, 1862; John W. Mills, 1862; Owen T. Coffin, 1870.

District attorneys from 1796 with dates of their appointment have been: Nathaniel Lawrence, 1796; Cadwallader D. Colden, 1798; Richard Riker, 1801; Cadwallader D. Colden, 1810; Richard Riker, 1811; Barent Gardinier, 1813; Thomas S. Lester, 1815; Robert P. Lee, 1818; Aaron Ward, 1819; William Nelson, 1822; Richard R. Voris, 1844; William W. Scrugham, 1847; Edward Wells, 1856; William H. Pemberton, 1859; Pelham L. McClellan, 1862; John S. Bates, 1865; Jackson O. Dykeman, 1868; Daniel C. Briggs, 1871; Robert Cochran, 1874; Nelson H. Baker, 1877.

### SUFFOLK COUNTY

Until 1729, during the colonial period, the courts of Suffolk county were held in Southold or in Southampton. In 1729 a court house was erected in Riverhead, and from that time on the courts have been held in that place. An old building in Southold which had been abandoned upon the occasion of the building of the new church in that place, was bought and used as a prison until the court house was built at Riverhead. When Riverhead was decided upon as the county seat, a small frame building was erected to answer for both court house and jail, and in this building the first session of the court was held March 27, 1729.

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After a century of usefulness this building was repaired and a new jail erected, both structures continuing in use for many years thereafter.

The first record of a case of capital punishment was that of John Slocum, who was executed September 4, 1786, for horse stealing. On October 5, 1799, William Erskine, a colored man, was executed for rape. On January 12, 1835, William Enoch was executed for the murder of his wife. On July 2, 1836, John Hallock was executed for the murder of a colored woman. On July 6, 1841, Samuel Johnson, who had murdered his wife, was executed, and on December 15, 1854, Nicholas B. Hand was executed for the murder of James Wickham.

The first court house, after reconstruction and enlargement, is standing even to modern times in the center of the business portion of the village. Its interior has been re-arranged, and fitted for various business purposes. The new court house was erected in 1854-1855 on a large plot of ground in what was then the northwestern suburb of Riverhead, and the building committee which had charge of the work of construction consisted of S. B. Nicoll, of Shelter Island, William R. Post, of Southampton, and Sylvester Miller, of Riverhead. The building is of brick and stone, and cost \$17,800. The jail, an octagonal building of stone, occupies the center of the yard in the rear. In 1881, the jail having proved to be insufficient for its purpose, a new building was added to it, a court house two stories in height rising from a stone basement. The basement and a part of the main floor are occupied for the living rooms of the sheriff or jailer; on the main floor are the jury rooms, while the supervisors' rooms and the court room are on the second floor.

County judges from early in the eighteenth century have been: Joseph Fordham, 1707; Henry Smith, 1713; Daniel Smith,

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1744; Richard Floyd, 1751; William Smith, 1771; Selah Strong, 1784; Ebenezer Platt, 1793; Abraham Woodhull, 1800; Thomas S. Strong, 1810; Nathaniel Potter, 1823; Jonathan S. Conklin, 1828; Hugh Halsey, 1833; Abraham T. Rose, 1847; William P. Buffett, 1851; Abraham T. Ross, 1855; George Miller, 1857; J. Lawrence Smith, 1857; Henry P. Hedges, 1865; John R. Reid, 1869; Henry P. Hedges, 1873, and Thomas Young, 1879.

Surrogates, from the organization of the county with dates of their appointment or election, have been: William Smith, 1691; Giles Sylvester, 1706; Joseph Fordham, 1709; Jeremiah Scott, 1723; B. Sylvester, 1727; Henry Smith, 1739; Malby Gelston, 1753; Elijah Hutchinson, 1753; William Thrope, 1754; Samuel Landon, 1757; Richard Miller, 1766; William Smith, 1766; Jared Landon, 1768; Nathan Woodhull, 1769; David Gelston, 1775; Hugh Gelston, Jr., 1786; Thomas Tredwell, 1787; Nicoll Floyd, 1791; Ebenezer M. Case, 1823; Hugh Halsey, 1827; George Miller, 1840; Charles A. Floyd, 1844.

The district attorneys after the constitution of 1846 were: William Wickham, 1848; J. Lawrence Smith, 1857; George Miller, 1859; Henry P. Hedges, 1862; Samuel A. Smith, 1866; James H. Tuthill, 1867; Nathaniel D. Petty, 1879.

### ULSTER COUNTY

The little settlement at Esopus was recognized by Governor Stuyvesant in the spring of 1661, when he created it a village under the name of Wiltwyck, and gave to it its first charter. Stuyvesant issued laws for the government of the settlement, established a court of *burgomasters* and *schepens*, and appointed a *schout*, or sheriff. This was the first organization of court affairs in the territory afterwards included within the bounds of the county of Ulster. The first court held in this section was at



SENATE HOUSE, KINGSTON, 1777.

Still standing and used as a Historical Museum.





**The Senate House, Kingston**



## HISTORY OF NEW YORK

Wiltwyck, July 12, 1661. It was presided over by Roeloff Swartwout as *schout*, and with him were associated Everet Pels, Cornelis Barentse Schlecht and Albert Heymanse Roosa, *schepens*. During the Dutch period the court affairs were conducted, as in other parts of the colony, under the administration of the *schout*, *burgomasters* and *schepens*. Under the English colonial government the administration of justice continued in much the same way.

During the war of the revolution the territory suffered much and the administration of justice was of a somewhat desultory character. In January, 1784, Thomas Garton and Henry Beeckman had commissions as justices of the peace for the county, and William Ashfordby, as sheriff. The entries pertaining to these officials are the first in which the name of Ulster appears. Magistrates of each town in the county were appointed to attend the courts, and these were: for Kingston, Michael Garton, Jan Williamsen and John Foeken; for Marbletown, Jacob Van Etten, and Robert Bickerstaff; for Hurley, John Eltinge and Cornelius Cool, and for Paltz, John Hasbrouck and Abraham Du Bois. The constables were: for Kingston, Jacob Rutgers; for Marbletown, John Cock; for Hurley, Johannes De Hooges, and for Paltz, Symon Le Feure.

With the opening of the revolution, Ulster county came into particular prominence. At Kingston was held the first convention of the representatives of the State of New York which adopted and promulgated the first State constitution, and in October of the same year Kingston was sacked and burned by the British. The beginning of the first supreme court of the State in Kingston in September, 1777, was a notable historic event. The appearance of Chief Justice John Jay on the bench

## LEGAL AND JUDICIAL

with the associate justices, Robert Yates and John Sloss Hobart, gave to Ulster county and Kingston a prominent distinction.

The first county court in Ulster under the State government, assembled in 1788, with Levy Paulding as judge, Egbert Drummond, sheriff, and Joseph Gasherie, circuit judge. After the burning of Kingston in 1776, the first session of the court of common pleas was held at the house of Johannes Tack, in Marbletown. The judges who sat upon the bench were Levi Pawling and Dirck Wynkoop, Jr., and the assistant justices were Johannes Schlecht, Nathan Smith and Patrick Barber. The county judges under the English government were: Thomas Garton, Henry Beeckman, Abraham Gaasbeck Chambers, Cornelius Hornbeck, Charles Clinton and Cadwallader Colden.

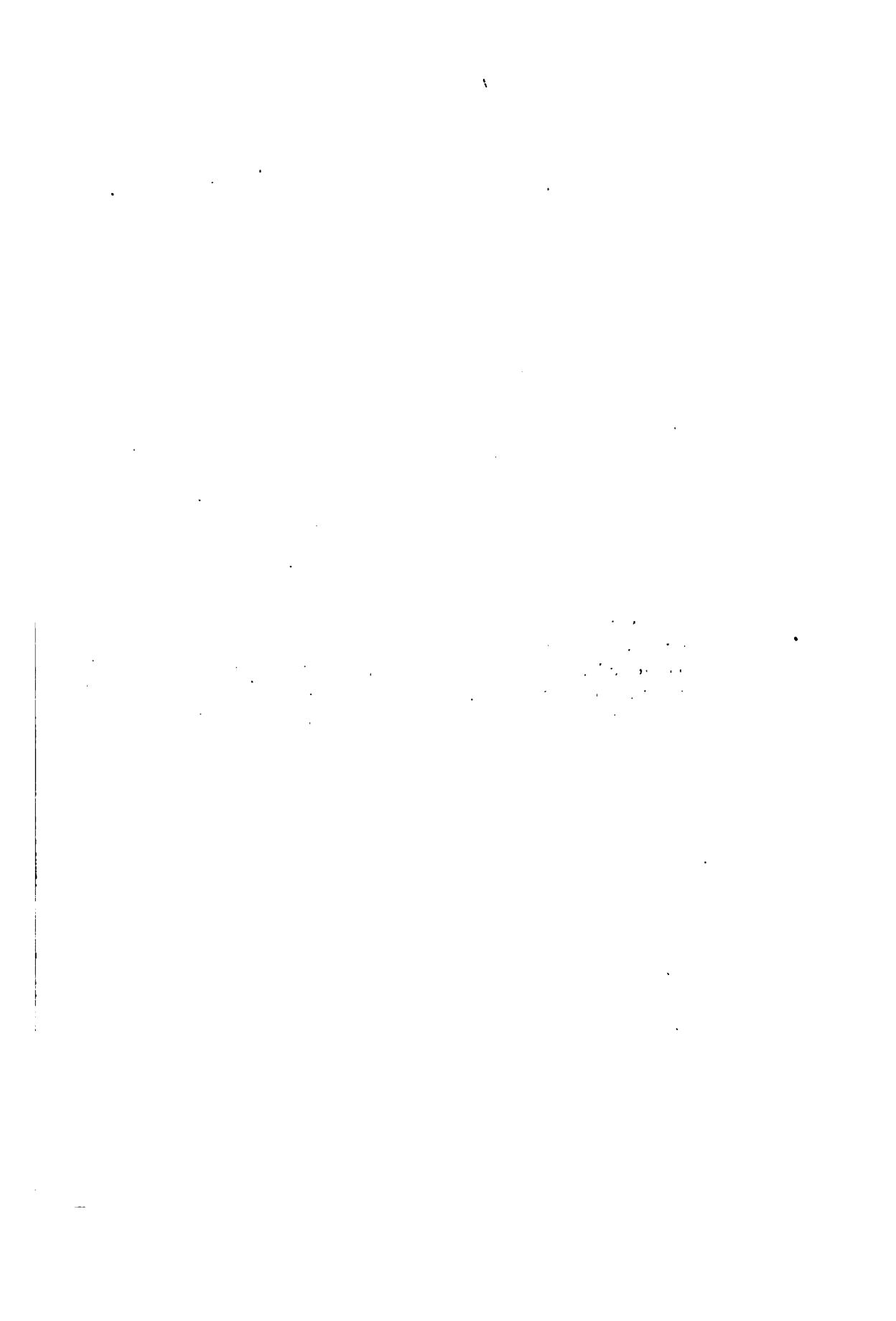
County judges under the State government have been: Levy Paulding, 1778; Dirck Wynkoop, 1783; Nathan Smith, 1793; Jonathan Hasbrouck, 1798; James Oliver, 1799; William A. Thompson, 1805; John Tremper, 1810; Lucas Elmendorf, 1815; Jonathan DuBois, 1821; Abraham D. Soper, 1828; John Van Buren, 1836; James C. Forsyth, 1841; James O. Linderman, 1843; Nicholas R. Graham, 1855; Henry Brodhead, Jr., 1859; Augustus Schoonmaker, Jr., 1864-1871; and William Lawton, 1872-1883; William S. Kenyon, 1884-1889; Alphonso T. Clearwater, 1890-1898; Severyn B. Sharpe; John G. Van Etten, 1899-1904; and Charles F. Cantine, 1905-1910.

District attorneys have been: Conrad E. Elmendorf, Lucas Elmendorf, Samuel Hawkins, John Champlain, 1818; Abram Myer, 1820; John C. Tillotson, 1822; C. H. Ruggles, 1828; Nathaniel Sickles, 1836; Willet Linderman, 1837; John Van Buren, 1846; Robert F. McAuley, 1850; John Lyon, 1853; Joseph D. Shafer, 1856; David M. DeWitt, 1863-1868; Frederic L. Westbrook, 1869-1871; Oliver P. Carpenter, 1872-1874,

ALTON B. PARKER.

(1852—).

Lawyer and Jurist; Surrogate Ulster County, 1877-85; Justice Supreme Court, 1885-1897, serving from 1889 to 1893 as Associate Judge Court of Appeals, Second Division; Chief Judge Court of Appeals, 1897-1904, when he resigned to accept the nomination of the Democratic party as its candidate for President of the United States; President of American Bar Association, 1906.







**Alton B. Parker**



## *HISTORY OF NEW YORK*

James M. Van Wagonen, 1875-1877; and Alphonso T. Clearwater, 1878-1886; John N. Vanderlyn, 1887-1892; F. Arthur Westbrook, 1893-1895; Charles F. Cantine, 1896-1904; Frederick Stephen, Jr., 1905-1907; and William D. Cunningham, 1908-1910.

No county in the State in the early years of its existence showed a more brilliant record of its representatives of bench and bar. Many of those who practiced and who subsequently sat upon the bench, were men who gained eminent reputation in the ranks of jurisprudence, several of them achieving even national repute in professional and public affairs. Prominent among those who gave distinction to the bar of Ulster county in the latter part of the eighteenth century were: Anthony Dumond, George Clinton, John Addison, Lucas Elmendorf, Coonradt Edmundus Elmendorf, and Barent Gardinier. Other men of mark who figured alike, in appearance between 1800 and 1840, were John Tappan, William Cockburn, John Sudam, Henry Tappan, Charles H. Ruggles, Daniel Brodhead, Zachariah Schoonmaker, Severyn Bruyn, Samuel Hawkins, Christopher Tappan, Jr., Willet Linderman, Abram Bruyn Hasbrouck, Marius Schoonmaker, John Van Buren, John Cole, Nicholas Sickles, James O. Linderman, John T. Romeyn, James C. Forsyth, Abram Myer, John J. Ferris, Abram D. Soper, William Wigram, Jonathan D. Ostrander, Henry Vanderlyn, Henry Brodhead, Jr., Jonathan H. Hasbrouck and Johannes Bruyn.

When the county, as one of the twelve original counties of the province of New York, was formed by order of the Duke of York, in 1683, the county buildings, the court house and jail, were erected. A few years afterwards, in 1715, it was found necessary to have appropriations for their repair. It was not long before the buildings were entirely inadequate for the

## LEGAL AND JUDICIAL

purpose for which they were used, and permission was sought from the legislature to have them sold, along with the lot on which they stood, in order that new buildings could be erected in a more convenient locality. Again in 1745, 1750, 1765 and 1773, repairs were authorized, and in 1775 it was necessary to raise more money in order to complete them. During the revolution the buildings were ruined by the British, and for the purpose of rebuilding them after their destruction, a lottery was granted in order to raise £2000, which was considered the amount necessary for the purpose.

By a resolution of the provincial convention passed December 21, 1775, the Ulster county jail became the jail of congress. The court house of modern times was built in 1818, a fine stone edifice situated on Wall Street. In the rear of the brick house is the jail, a stone building. Formerly the jail was included in the main building of the court house, but about 1868 it was moved to the rear of the court house, where it now is.

### MONTGOMERY COUNTY

In 1788 Montgomery county was one of the largest, territorially, then in existence. It included all the State west of the counties of Ulster, Albany, Washington and Clinton. Originally it was Tryon county, so named after William Tryon, the British governor of the province, when in 1772 the colonial legislature divided the original county of Albany in order to create two additional counties. The name Tryon was retained only a few short years, the name of the governor having become so offensive to Americans, that it was wiped off the map of the State in 1784. The name of Montgomery, in honor of the patriotic American general who was killed in the attack upon Quebec, was substituted for that of the obnoxious British governor.

## *HISTORY OF NEW YORK*

When Tryon county was created in 1772, the seat of justice was located in Johnstown. Previous to that time public buildings had been erected in that place by Sir William Johnson, who founded the village that bears his name; and who was an ardent supporter of Governor Tryon. The court house and the jail were built in the same year that the county was created, and the first term of the court was held there in September. Sir William Johnson died in 1774, and his estate was inherited by his son, Sir John Johnson, who energetically espoused the British cause against the American patriots.

During the revolution Sir John Johnson claimed the ownership of the county buildings erected by his father and refused to allow the colonial authorities to make any use of them. Especially he objected to utilizing the jail for the confinement of Tories, which was then the principal purpose for which jails were desired by the patriotic committees of safety. On the other hand the county claimed that these buildings had been given to the public by Sir William Johnson. This difference of opinion was ultimately settled in a conclusive way. Sir John Johnson found that, holding his Tory views, it was impossible for him to remain longer in the community with which he and his father had been so conspicuously identified. Accordingly he fled the country. Thereupon his entire estate was confiscated and sold, and county buildings henceforth became, without question, public property.

For a period of more than half a century Montgomery county continued unimpaired in its territorial boundaries. All through that section of the State, and especially in the Mohawk Valley, the population increased steadily. Other villages in the county grew into importance, and in some instances even over-shadowed Johnstown, the capital. Gradually a demand arose for a change in the county seat from Johnstown to some other place nearer to the

## LEGAL AND JUDICIAL

center of population, and more accessible, and therefore more convenient for court officers.

Finally, when the matter was presented to the legislature in 1836, there was little difficulty in persuading that body to make the desired change, and to designate Fonda as the county seat. As a condition of this change, land upon which to erect the county buildings was donated to the county, together with a subscription of \$4,500 toward the cost of the new structures. The court house, which is of brick, and the jail included, cost \$30,500.

This court house has witnessed some important trials, among them being the Putnam ejection case, in which both Nicholas Hill and John Van Buren displayed their forensic abilities. One of the most interesting scenes, however, was a trial in which the novelist, J. Fennimore Cooper, though not a professional lawyer, plead his own case in a masterly manner. Cooper had prosecuted a Cooperstown editor for libel, and the venue had been changed to Montgomery county because of the bitter prejudice which then existed against the author at his home. Cooper presented a grand appearance as he stood before the court, six feet high and finely proportioned, with a massive head and a cultivated face, and his address to the jury showed that he had fine power of oratory. The defense was conducted by Joshua Spencer of Utica, but the verdict was given for Cooper.

The county jail originally stood south of the court house on the same lot. In 1881 it was destroyed by fire but it was immediately rebuilt in connection with the residence of the sheriff at a cost of \$40,000. Over the main entrance to the court house is this inscription regarding the erection of the building, "This building was erected in the year 1836 by Lawrence Marcellas, carpenter, and Henry Holmes, mason, under the charge of Aaron C. Wheeler, Henry Adams and Howland Fish, commissioners charged with the erection."

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Justices of the State supreme court who have been residents of Montgomery county have been Frothingham Fish and Martin L. Stover.

County judges have been: Guy Johnson, 1772; Jacob Klock, 1778; Jelles Fonda, 1784; Frederick Fisher, 1787; Abraham Arndt, 1801; Simeon Vedder, 1802; John McCarthy, 1809; Alexander Sheldon, 1815; Aaron Haring, 1819; Abraham Morrill, 1833; Phineas Randall, 1841; John Darrow, 1846; Samuel Belding, Jr., 1847; Richard H. Cushney, 1859; George Yost, 1863; James H. Cook, 1867; Solomon P. Heath, 1871; Zerah S. Westbrook, 1877-1883; Henry V. Borst, and John D. Wendell, 1889.

District attorneys have been: Daniel Cady, 1813; Samuel S. Lush, 1813; Richard M. Livingston, 1815; Alfred Conkling, 1818; William I. Dodge, 1821; Charles McVean, 1836; Garret L. Root, 1841; Howland Fish, 1843; Henry Adams, 1846; John A. Mitchell, 1847; Stephen Sammons, 1850; Peter G. Webster, 1853; Abraham Hees, 1856; James H. Cook, 1859; Henry Sacia, 1862; Daniel S. Morrell, 1865; Hezekiah Baker, 1868; John D. Wendell, 1871; Henry Dunkel, 1874; Robert B. Fish, 1880; Henry V. Borst, 1883; and Charles S. Nesbitt, 1885-1889.

Surrogates of the county prior to 1846 were: Christopher P. Yates, 1778; Isaac Paris, 1787; Josiah Crane, 1790; Charles Walton, 1800; James Lansing, 1801; Tobias A. Stoutenburgh, 1821; Richard H. Cushney, 1838; Giles F. Van Vechten, 1843.

### WASHINGTON COUNTY

Prior to the revolt of the colonies from British rule, the territory afterwards comprised in Washington county was known as Charlotte county. This name it continued to hold until after the declaration of peace between the United States and Great Britain. In 1779, when hostilities were still in progress, an act

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of the colonial legislature directed that courts should be held in that county, the name Charlotte still being used, and under this act several terms of court were held. On April 2, 1784, the legislature passed an act changing the name of the county from Charlotte to Washington.

So far as the records go, the first court held in the county under its new name was in 1786, two years after the name had been changed. Alexander Webster, of Hebron, presided as the first judge, and his associates were Ebenezer Russell of Salem, and David Hopkins of Hebron. Moses Martin, John McAllister, Albert Baker, John Brown, and Aaron Fuller were justices of the quorum. Colonel John McRea was appointed clerk of the court.

On February 5, 1787, the legislature passed an act reconfirming its previous act of 1784 relating to Washington county, and directing that courts should be held in Salem, that is, the court of common pleas and the court of general sessions, three times a year. The usual jealousies between the different sections of the county existed in Washington as well as elsewhere. The people in the western part of the county considered that it was very much to their detriment to have all of the courts held in Salem, and they brought strong influence to bear to secure a change. Accordingly, a little more than two months after the first act of the legislature was passed in 1787, the law was amended so that one of the three court terms should be held in the village of Fort Edward, at the house of Adiel Sherwood.

Still controversy over the final determination of the location of the county seat continued. In 1791 a petition was circulated asking that the legislature should fix the county seat permanently in Salem. The petition also asked that the erection of buildings for the court house and jail in Salem should be authorized. Previous to that time there had been no county buildings erected. This



JOHN SAVAGE.

(1779-1863).

Jurist and Statesman; while living in Salem, Washintgon county, was District Attorney, 1806-13, 1818-20; Member of Assembly, 1811; Member of Congress, 1815-19; Chief Justice Supreme Court, 1823-31.





**John Savage**



## HISTORY OF NEW YORK

movement on the part of the people of Salem was strenuously resisted by the people of Fort Edward and the neighboring towns in the western part of the county, and as a compromise it was attempted to secure the location of the county seat at Fort Miller. The board of supervisors to whom the matter was referred by the legislature decided in favor of the town of Salem.

The people of Fort Edward, however, did not relinquish their efforts, and endeavored to have the decision reconsidered. In this they were unsuccessful, and also in the attempt to have two county seats established, one in the eastern and the other in the western part of the county. Finally, however, they prevailed upon the legislature to pass a law directing that the courts should be held as they had been heretofore, part of the time in Fort Edward. In the year following this settlement of the controversy, an act was passed directing the county to raise money to build a court house and jail in Salem, and these structures were completed in 1796.

No court house was ever built in Fort Edward. For six years only the county seat for the western part of the county continued in Fort Edward. In 1797 it was removed to Sandy Hill, where it has remained ever since. A historian of the county gives a curious explanation of the cause of this change, attributing it to a contempt of court committed by Adiel Sherwood. According to this chronicler,

"The court was held in the dining room of his tavern at Fort Edward. At the sitting there, in 1796, something put the colonel out of temper and he invaded the court room and ordered the judges out, telling them he needed the room for dinner. The judges retired, but at the afternoon session sentenced him to jail for fifteen days, for contempt of court. At the next session of the legislature the western county seat was transferred to Sandy Hill."

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1. "Washington County, New York, Its History to the Close of the Nineteenth Century", by William L. Stone, p. 507.

## LEGAL AND JUDICIAL

The first court house at Sandy Hill was built in 1806, and was replaced in 1873 by a fine structure still in existence at the beginning of the twentieth century. For the original court house built in Salem in 1796, the present court house was substituted in 1871.

In 1806 the office of the county clerk was fixed at Argyle, for the purpose of having it located at a point intermediate between Sandy Hill and Salem. Under the new constitution of 1846, which provided for the election of county judges by the people, Martin Lee, of Granville, was the first county judge. Two chief justices of the Supreme Court have come from Washington county, Samuel Nelson and John Savage, and two justices of the Supreme Court, Cornelius L. Allen and Joseph Potter.

Court officers of the county from 1773 to the beginning of the twentieth century were: First judges, common pleas, 1773, Philip Schuyler; 1777 and 1778, William Duer; 1778, Alexander Webster, 1786; Ebenezer Russell, 1788; Ebenezer Clark, 1800; Anthony I. Blanchard, 1810; John P. Wendell, 1823; Roswell Weston, 1825; John Willard, 1833; John McLean, Jr., 1835.

County judges have been: Martin Lees, 1847; James Gibson, 1851; A. Dallas Wait, 1855; Oscar F. Thompson, 1859; Joseph Potter, 1863; A. Dallas Wait, 1871; R. C. Betts, 1884; J. M. Whitman, 1877; T. A. Lillie, 1888; Charles R. Paris, 1900.

Special county judges have been: Oscar F. Thompson, 1855; Henry Gibson, 1859; Royal C. Betts, 1863; Samuel Thomas, 1871; C. L. Allen, Jr., 1874; A. D. Arnold, 1887; Frederick Bratt, 1898.

District attorneys have been: Anthony B. Blanchard, 1801; John Russell, 1803; John Savage, 1806; Roger Skinner,

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1811; John Savage, 1812; David Russell, 1813; Jesse L. Billings, 1815; John Savage, 1818; Jesse L. Billings, 1820; Henry C. Martindale, 1821; Leonard Gibbs, 1828; Cornelius L. Allen, 1836; Charles F. Ingalls, 1843; Henry B. Northrup, 1847; Joseph Potter, 1851; Archibald L. McDougall, 1856; Joseph Potter, 1862; A. Dallas Wait, 1863; Royal C. Betts, 1868; Samuel Thomas, 1874; Marinus Fairchild, 1877; Edgar Hull, 1880; James White, 1891; Charles O. Pratt, 1899.

Surrogates, with dates of appointment or election, have been: Patrick Smith, 1775; Ebenezer Clark, 1778; Edward Savage, 1783; Melancton L. Woolsey, 1786; Edward Savage, 1787; Isaac Sargent, 1808; Edward Savage, 1810; Isaac Sargent, 1811; Nathaniel Pitcher, 1812; Edward Savage, 1813; Henry C. Martindale, 1816; Calvin Smith, 1819; Leonard Gibbs, 1821; Samuel Standish, 1824; John Willard, 1832; Alexander Robertson, 1837; John C. Parker, 1841; Luther Waite, 1845; Joseph Boles, 1847; David A. Boles, 1851; Marinus Fairchild, 1855; Urias G. Paris, 1859; James J. Lowrie, 1867, and Lonson Fraser, 1871.

### COLUMBIA COUNTY

Columbia county was erected from Albany by act of the legislature April 4, 1786, and the first meeting of the supervisors was held on June 6 of the same year, at the house of Gabriel Esselstyne, in Claverack. The court of common pleas for the county was first opened January 9, 1787. According to the records, "the Cryer made proclamation and the commission for the Court of Common Pleas for the County of Columbia was openly read, also one additional commission for Justice Philip Rockefeller and Justice Bishop." Upon this occasion the first

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judge, Peter Van Ness, presided, and seated on the bench with him were Judges Peter Sylvester, Peter R. Livingston, Henry I. Van Rensselaer and William B. Whitney, and Assistant Justices Stephen Hogeboom and Samuel Ten Broeck. Jacob Radcliff, Killiaen K. Van Rensselaer, Peter Van Schaack, John C. Wynkoop, Myndert P. Bosburg, Edward Livingston, Elisha Pratt, E. Gilbert, Thomas Smith, Jr., John Johnson and John Bay were admitted to practice as attorneys.

At the May term of this court in 1787, Judge Peter Van Ness, Peter Sylvester, Peter Livingston, Henry I. Van Rensselaer, Stephen Hogeboom and Isaac Goes were the judges. At the January term in 1788, Ambrose Spencer, Martin Van Buren and James S. Smith, men who were destined to attain to pre-eminent distinction in the history of their country, were admitted to practice. The first term of the court of general sessions was held in Claverack, January 9, 1787, with Justice Peter Van Ness presiding.

The first term of oyer and terminer and general jail delivery in the county was begun March 25, 1788. Robert Yates, chief justice of the supreme court, presided, and Justices Peter Van Ness, Peter R. Livingston, and Henry I. Van Rensselaer sat upon the bench with him. During this session of the court, Jacobus Krelenbergh, Philip Jansen and John Davis, convicted of horse stealing, were sentenced to be hanged, and the execution took place in accordance with the sentence on the thirtieth day of the following month of May. At the second oyer and terminer, in March, 1789, Henry McKinney and Timothy Jackson were convicted of robbery and were hanged in the following December. At the October term of oyer and terminer in 1795, Supreme Court Justice Yates presiding, Jessup Darling was convicted of forgery and sentenced to be hanged in the following



MARTIN VAN BUREN.

(1782-1862).

Lawyer, Statesman and Diplomat; Surrogate of Columbia County, 1808-13; State Senator and Member of Court for Correction of Errors, 1813-20; Attorney General, 1815-19; Regent of University, 1816-29; United States Senator, 1821-28; Governor 1828-29; Secretary of State in Jackson's Cabinet, 1829-31; Minister to England, 1831; Vice President, 1833-37; President, 1837-41.





**Martin Van Buren**



## HISTORY OF NEW YORK

December, "within two miles of the court house in Claverack, on or near the road leading to Kinderhook."

The first court house was erected in Claverack in 1786-1788. It cost about \$9000. In modern times it was the mansion of Peter Hoffman. It remained the court house until 1806, at which time a building was provided in Hudson, the county seat having been removed to that city in 1805. Killiaen K. Van Rensselaer, the first surrogate, opened his office in the house of Dr. Joseph Mullins, in Claverack village. The deed of the site for the court house in Claverack was executed by Gabriel Esselstyne June, 7, 1786, and conveyed the site to John Livingston, William Powers, Cornelius Van Schaack, James Bryant, Peter Weismer, Thomas Jenkins, and Johannes Kirtz, who constituted the board of supervisors of the county. The consideration was £20, and the deed was made under the act of organization of the county April 4, 1786, which located the county seat at or near the old church in Claverack. The premises were described as follows: "beginning at a certain point on a cross S. 50 degrees, E. distant 2 chains 18 links from the northeasterly corner of the new dwelling house of said Gabriel Esselstyne, running from said point or beginning N. 44 degrees, E. 4 chains, then S. 50 degrees, 1 chain, 71 links, then S. 44 degrees, W. 4 chains to the old church, then north 50 degrees, W. 1 chain, 71 links to the beginning." This deed was indorsed with receipts and "livery and seizin made and given" and signed "Thomas Williams, Jun., Walter V. Wemple."

This court house was not calculated for long endurance, and soon needed repairs. In October, 1801, a committee which had been appointed to inspect the county buildings reported "finding them in a state of decay", and repairs were recommended and made. Within a few years, however, in 1805, after much earnest

## LEGAL AND JUDICIAL

and persistent opposition, the county seat was removed from Claverack to the city of Hudson, which place had outgrown its rival in business and in population. As early as 1785 Hudson had a gaol, a rough log structure provided with gratings and heavy doors. A city hall was begun in 1786, but was not finished until some years later. When the removal of the county seat was fully determined upon, the unfinished city hall was transferred to the county as a court house, and at the same time the sum of \$2,000 was voted for the purpose of purchasing a lot and erecting thereon a new jail. In October, 1805, the jail building was ready for use. It remained standing until the present day, its outward appearance being substantially the same as when it was first built. In modern times it has been occupied by the Hudson Gazette and Daily Register.

When the old city hall was turned over to the county for a court house, its upper story was divided into chambers, as they were called, which were used as school rooms and for other purposes. The ground floor, which had been originally intended as a meeting hall, had been used for storage and other commercial purposes. In remodeling the building for use as a court house, the arrangement was reversed, so that the hall and the court room were brought into the upper story. This was used not only by the courts, but by several of the religious societies as a place of worship, and for nearly all public gatherings. When the building was superceded by the present modern court house, it was vacated by the county and sold to the Presbyterian Society for a place of worship.

In a little more than a quarter of a century the need of a new court house began to be seriously felt. On November 3, 1833, the supervisors appointed a committee to report upon the condition of the court house and jail and make plans for erecting a

## *HISTORY OF NEW YORK*

new structure. Financial arrangements were concluded by which the city of Hudson made an appropriation toward the erection of the new buildings. A building committee consisting of John Mesick, John W. Edmonds and James Mellen received authority to contract for the erection of the buildings at a cost of not more than \$19,500. Subsequently the legislature granted authority to raise an additional \$2,500 for this purpose.

A contract for the erection of the building was made early in the ensuing year, and the structure was completed at a cost of a little more than \$26,000. The building, which remained in use until the present day structure was erected in its place, was built with a front of Stockbridge marble and with the other parts of Blue Mountain limestone. The main building was forty-eight feet front with a depth of fifty-nine feet, with a portico and pediment thirteen feet wide at the base, across the whole front. Six fluted columns upheld this portico. There were two wings to the main building each thirty-four by forty-four feet. The east wing was built for a jail, and the west wing for the county clerk's office. With the exception of some minor changes this building served the county for court purposes until the year 1900, when measures were taken to have a new structure in its place. The present court house, erected in 1900, is very similar to that which preceded it. It is a handsome structure of Stockbridge marble, of two stories, the central part having a portico and pediment across its front, supported upon eight massive Corinthian columns. A short flight of stone steps lead through these columns to the main entrance. As in the older structure, there is a wing on each side of the main building. From the center of the roof rises a dome which is surmounted by a colossal figure of justice. The building cost over \$60,000, and adjoining it is a separate residence for the sheriff.

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As far back as the middle of the century, agitation for a new jail was begun. A committee of supervisors condemned the old jail in 1853 and recommended the erection of a new one on the Auburn plan. This project was not carried out, however. Another plan for a new jail in 1867 also failed, as did a similar proposition in 1872, 1874, and 1875. Finally, in 1899, the project was carried out, and the present brick jail, which stands in the rear of the court house was constructed at a cost of a little more than \$15,000.

The mayor's court in Hudson was long an influential element in the judiciary of the county. It was instituted with the incorporation of the city and opened for the first time June 7, 1785, with the following officers present: Seth Jenkins, Esq., mayor; Nathaniel Greene, recorder; and Ezra Reed, William Mayhew, Benjamin Folger, aldermen. There was no business for the court, and it adjourned to the first Tuesday in July, at which date nine cases came before it. John Bay and Ezekiel Gilbert were attorneys in attendance. Orders in each case were entered for pleas in ten days, or in default, judgment would be entered; there was one exception in which the plaintiff was ordered to give security for costs. At the September term, the first jury trial was held, the jurors being Titus Morgan, Reuben Folger, Peter Fields, Shubael Worth, Dan Paddock, William Tunncliffe, Cotton Gelston, Silan Bunker, William Hardick, Nathaniel Porter and Elihu Bunker. At the December term, Ambrose Spencer and H. L. Hosmer were admitted to practice and at the September term of 1786 Killiaen K. Van Rensselaer was admitted.

Recorders of that court were: Nathaniel Greene, 1785; Hezekiah L. Hosmer, 1793; Levi Wheaton, Jr., 1794; Alexander Coffin, 1797; Cotton Gelston, 1797; Elisha Pitkin, 1801; David Lawrence, 1802; Philip S. Parker, 1808; Hezekiah L. Hosmer,



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THEODORE MILLER.

(1816-1895).

Lawyer and Jurist: District Attorney Columbia County, 1843-47; Justice Supreme Court, 1861-74, from 1870 to 1874 being Presiding Justice of the General Term Third Department; Associate Judge Court of Appeals, 1874-86.





**Theodore Miller**



## HISTORY OF NEW YORK

1810; Joseph D. Monell, 1811; Hezekiah L. Hosmer, 1813; Joseph D. Monell, 1815; Ambrose L. Jordan, 1821; John W. Edmonds, 1827; Darius Peck, 1833; Robert McClellan, 1843; Rodolphus P. Skinner, 1849; Stephen L. Magoun, 1852; Elijah Payn, 1855; Henry Miller, 1858; Alexander S. Rowley, 1861; Robert B. Monell, 1863; Henry Miller, 1865; Theodore Snyder, 1867; Isaac N. Collier, 1871; Edward P. Magoun, 1873; and John B. Long, 1875.

Columbia county has given to the supreme court of the State the following judges: Robert Livingston, 1763; Ambrose Spencer, 1804; William W. Van Ness, 1807; James Vandepoel, 1830; Henry Hogeboom, 1857; Theodore Miller, 1861; Henry Hogeboom, 1863; Theodore Miller, 1867; John W. Edmonds, 1847; Robert H. Morris, 1852; Josiah Sutherland, 1857; Claudius L. Monell, 1874; Samuel Edwards Hudson, 1887.

The county judges have been: Peter Van Ness, 1786; Nathan Green, 1795; Jacob Ford, 1796; William Wilson, 1804 and 1814; John J. Miller, 1815; Daniel B. Cady, 1840; Abraham P. Holridge, 1841; Julius Wilcoxson, 1846; John T. Hogeboom, 1847; Darius Peck, 1855; John C. Newkirk, 1859; Darius Peck, 1863 and 1867; John Cadman, 1871; Hugh W. McClellan, 1877 and 1883; J. Rider Cady, 1889; Levi F. Longley, 1896; Sanford W. Smith, 1902; Mark Duntz, 1907.

Surrogates have been: Killiaen K. Van Rensselaer, 1786; Philip L. Hoffman, 1791; William W. Van Ness, 1800; James I. Van Allen, 1804; Martin Van Buren, 1808; James Vanderpoel, 1813; James I. Van Allen, 1815; Abraham A. Van Buren, 1822; John Gaul, Jr., 1837; William H. Tobey, 1841; Joseph D. Monell, 1845; Charles B. Dutcher, 1847; Elijah Payn, 1851; Robert B. Monell, 1855; Charles Esselstyn, 1859; Charles Esselstyn, 1863; Hugh W. McClellan, 1867; Herman V. Esselstyn,

## LEGAL AND JUDICIAL

1871; Isaac N. Collier, 1877; John V. Whitbeck, 1895; John V. Whitbeck, 1902, and George McClellan, 1908.

District Attorneys since 1818 have been: Joseph D. Monell, 1818; Thomas Bay, 1819; Julius C. Wilcoxson, 1821; Josiah Sutherland, Jr., 1832; Theodore Miller, 1843; Robert C. Andrews, 1847; John C. Newkirk, 1850; William A. Porter, 1853; David S. Cowles, 1856; Francis Silvester, 1859; James Storm, 1862; John M. Welch, 1865; John B. Longley, 1868; Charles M. Bell, 1871; Gershom Bulkley, 1874; John B. Longley, 1877; Aaron B. Gardenier, 1880; Aaron B. Gardenier, 1883; Aaron V. S. Cochrane, 1889; Edward F. McCormick, 1892; Mark Duntz, 1895-1899; Alfred Bruce Chace, 1902-1908.

### CLINTON COUNTY

Clinton county was set off from Washington county by act of the legislature of March 7, 1788. The first county judge was Charles Platt; the first surrogate, Theodorus Platt; the first sheriff, Benjamin Moores, and the first district attorney, John Palmer, who was appointed in 1818. These officers, with the exception of the district attorney, met in Plattsburg and took the oath of office June 8, 1788. The first court of sessions was held in October, 1788, Judge Platt presiding, and with him as associate justices were, Theodorus Platt, Pliny Moore, Peter Saily, William McAuley and Robert Cochrane.

In 1789, one year after the county was organized, the block house intended for the jail was erected on the shore of Lake Champlain. This was subsequently enlarged and used as a court house, religious meetings and schools being also held in the same building. The town records of Plattsburgh, of 1795, show that forty dollars was voted for the completion of the

## *HISTORY OF NEW YORK*

court house. The court room was in use in 1796, but the entire building was not completed until several years later, for at the annual town meeting in 1799 a tax of one hundred dollars was voted "to complete the court house", and Charles Platt, Benjamin Moores and John Stevenson were appointed a committee to oversee the work of construction.

Courts were held in this block house building until 1803, except that the June terms of 1797 and 1798 were held "at the block house in Willsborough". In 1803 the court house and jail was erected on one of the twelve public building lots on the site occupied by the court house of modern times. The new building cost \$2,751. During the siege of Plattsburgh in 1814, when the town was occupied by the British under Sir George Provost, the court house building was destroyed by hot shot from the American batteries, by order of General McComb.

Immediately after the close of the war a movement was started for the erection of a new court house. At a special session of the board of supervisors in 1815 the following resolutions were adopted: "Resolved: that the court house and jail be built of bricks with stone steps in front and the building to be of the same size of the former court house." Peter Saily, Martin Winchell and Nathaniel Z. Platt were appointed commissioners to superintend the erection of the building. This structure was completed in 1816, but it was destroyed by fire in 1836, and the court house known in modern times was erected on the same site.

The modern court house is a two-story brick building at the corner of Court and Margaret streets, and in addition to the court room contains the offices of the county judge and the sheriff. Previous to the erection of this building, the court house and jail had been included in one structure, but at this

## LEGAL AND JUDICIAL

time the two were separated, the jail being in the rear. The cost of both buildings was \$8,000.

The first court of oyer and terminer held in the county was in August, 1796, when Supreme Court Judge Egbert Benson presided. The celebrated judge and chancellor, Reuben H. Walworth, held circuit in the county in June, 1822. The first trial for felony before the oyer and terminer was in 1797, with Judge John Lansing, Jr., on the bench. David Smith was tried, convicted, and sentenced to ten years in prison at hard labor. Some severe sentences were meted out to criminals in those days. In June, 1808, Judge Smith Thompson, presiding in oyer and terminer, sentenced three counterfeiters to State prison for life, and one of their confederates to fourteen years imprisonment, for attempting to pass counterfeit money.

Judge Peter S. Palmer in speaking of the administration of the law in the county in the olden times, recorded some exceedingly interesting facts. Among these he mentions

"A remarkable instance of the care manifested by the local judges for the comfort of imprisoned debtors. The records of the common pleas show that immediately upon the completion of the new court house, an order was made that 'a passage from Caleb Nichols' tavern to the new court house be added to the jail yard and liberties'. The debtors, however, had reason to complain of one clause of the order; the passage was confined to steps of three feet in width and was to be in a straight line. This order remained in force until 1805, when the limits of the jail were extended to a line 'one half of a mile from the court house in all directions' and from that time debtors, like their more prosperous neighbors, could use both sides of the street upon returning from the tavern."

During the first one hundred years of the existence of Clinton county, there were six public executions within its borders. Five of these were by sentence of the civil court and one by a military court-martial.

Prior to the year 1800 there were only three resident at-



## *HISTORY OF NEW YORK*

torneys in Clinton—Adrial Peabody, 1795, Caleb Nichols, 1796, and Eleazer Miller, 1796. In May, 1802, Silas Hubbell and Jonathan Griffin were admitted.

The most distinguished members of the profession identified with Clinton, was the celebrated Chancellor Reuben H. Walworth, who practiced in Plattsburgh in the early part of his career. Of later date was Smith M. Weed, who lived in Plattsburgh during the greater part of his life. His activity in State politics made him one of the most conspicuous figures in the history of New York State in the last half of the nineteenth century. Other distinguished members of the Clinton county bar have been: Julius C. Hubbell, John Palmer, first judge of the county in 1832; George M. Beckwith, J. W. Woodward, John Lynde, Winslow C. Watson, Peter S. Palmer, George L. Clark and William Woodward.

Judges of the court of common pleas from the time of the first constitution until the constitution of 1847 were: Edward Anthill, 1789; Charles Platt, 1797; Peter Saily, 1805; William Bailey, 1806; Pliny Moore, 1807; Elisha Arnold, 1819; Reuben H. Walworth, 1823; Nathan Carver, 1823; John Lynde, 1827; John Palmer, 1832; William F. Haile, 1837; William Hedding, 1843.

After 1846 the county judges were: Lemuel Stetson, 1847; Thomas R. Watson, 1851; Perry G. Ellsworth, 1855; Jesse Gay, 1863; Peter S. Palmer, 1863; Daniel S. McMasters, 1867; George M. Beckwith, 1871; Winslow C. Watson, Jr., 1875; S. Alonzo Kellogg, 1881.

From the time the county was constituted a separate district, the district attorneys were: John Palmer, 1818; J. Douglas Woodward, 1831; Lemuel Stetson, 1838; Lorenzo D. Brock, 1844; Lorenzo D. Brock, 1847; Thomas Armstrong, 1850; Jesse

## LEGAL AND JUDICIAL

Gay, 1853; Charles E. Everest, 1856; Henry S. Johnson, 1859; James Averill, 1862; George H. Beckwith, 1865; John G. McDermott, 1868; Henry E. Barnard, 1871; S. A. Kellogg, 1874, and L. L. Shedden, 1879.

Surrogates, with the dates of their appointment or election were: Theodorus Platt, 1788; Thomas Treadwell, 1807; St. John B. L. Skinner, 1831; Eleazer Miller, 1840, and George W. Palmer, 1844.

### ONTARIO COUNTY

Created from Montgomery county in January, 1789, Ontario had a total population not exceeding one thousand persons. The first officials of the county were Oliver Phelps, first judge; John Cooper, surrogate; and Nathaniel Gorham, county clerk.

Judah Coat, the first sheriff, was not appointed to office until April 17, 1790, and it was not until the first Tuesday in June, 1792, that the term of the common pleas and general sessions was held within the county. At that time the court house had not been erected, and the sessions were held in an unfinished chamber in the house of Dr. Moses Atwater. It is said that Vincent Matthews was the only lawyer present at the opening of the court.

From the time of the creation of the county, the county seat and buildings were located in Canandaigua, N. Y. In Geneva, however, which was inclined to contest the claims of Canandaigua, the first court of oyer and terminer was convened in 1793, Judge John Sloss Hobart presiding.

The first court house was erected during the year 1794. It was a two-story frame structure, located on the corner of the

## HISTORY OF NEW YORK

public square, near the later day site of the modern court house. In 1824, when the second court house was built, the original building was removed and for many years was occupied as a town hall and post office; subsequently it degenerated into use as a storehouse. The second court house was a plain two-story building but substantially built, and with some pretensions to ornamentation in its architecture. Across its entire front was a broad portico, supported by heavy columns. This building continued in use from 1824 to 1858, a period of thirty-four years, before it was forced to give way to a larger and handsomer structure.

In the early part of 1857 the corner stone of the modern court house was laid with masonic ceremonies, and the building was completed and opened for use early in January, 1859. It was erected upon the old square, a building seventy-six by ninety-six feet, at a cost of \$46,000. It was surmounted by a large dome upon the apex of which was a statue of justice of heroic size. The general outside appearance of the building has been referred to as "not greatly similar to the court house in Rochester, and quite like that of Broome county in Binghamton." On the lower floor of the building are the county offices and post office, while in the upper second story are court rooms for the United States courts.

On the bench and at the bar of the courts of the county have been men of the highest character. Among the leading legal minds of the State, the county has furnished a generous proportion, many of these representatives having attained more than ordinary distinction. Prominent members of the old bar of the county were: Oliver Phelps, the first judge; Vincent Matthews, Nathaniel W. Howell, judge of the court of common pleas, assistant attorney general, and representative to congress; Dudley

## LEGAL AND JUDICIAL

Marvin, for three successive terms a representative to congress; John C. Spencer, son of Chief Justice Ambrose Spencer, one of the foremost men of his day, particularly remembered as New York secretary of state in 1839 and secretary of war, and secretary of the treasury under the administration of President Tyler; Gideon Granger, postmaster general during the administration of Thomas Jefferson and President Madison; Francis Granger, son of Gideon Granger, representative to congress and postmaster general under President Harrison; Mark H. Sibley, representative to congress, 1831-1841; Henry W. Taylor, justice of the state supreme court in 1850; Elbridge Gerry Lapham, member of congress for four successive terms, beginning in 1876, and elected United States senator in 1881; Samuel A. Foot, appointed to the court of appeals in 1856; Charles J. Folger, chief judge of the court of appeals, and secretary of the treasury under President Arthur; Henry W. Taylor, James C. Smith and William H. Adams, justice of the state supreme court; and the list could be still further extended.

County judges, with the dates of their appointment or election, have been: Oliver Phelps, 1789; Timothy Hosmer, 1793; John Nicholas, 1803; Nathaniel W. Howell, 1819; Oliver Phelps, 1833; Bowen Whiting, 1838; Charles J. Folger, 1844; E. Fitch Smith, 1845; Mark H. Sibley, 1847; Charles J. Folger, 1851; Peter M. Dox, 1855; John M. Bradford, 1856; Henry W. Taylor, 1857; George B. Dusenberre, 1860; William H. Smith, 1868; Francis O. Mason, 1872; William H. Smith, 1878; Frank Rice, 1844, and J. Henry Metcalf, 1890.

Surrogates, with the dates of their appointment or election, have been: John Cooper, 1789; Samuel Mellish, 1792; Israel Chapin, Jr., 1795; Amos Hall, 1796; Dudley Satonstall, 1798; Reuben Hart, 1809; Eliphalet Taylor, 1810; Reuben Hart, 1811;

## *HISTORY OF NEW YORK*

Eliphalet Taylor, 1813; Reuben Hart, 1815; Stephen Phelps, 1817; Ira Selby, 1821; Jared Wilcox, 1823; Jared Wilcox, 1827; Orson Benjamin, 1840; George R. Parburt, 1844; Mark H. Sibley, 1847; George Wilson, 1851; Orson Benjamin, 1852; Samuel Salisbury, 1853; John N. Whiting, 1855; Orson Benjamin, 1857; Elihu M. Morse, 1861; Isaac R. Parcell, 1869; Charles A. Richardson, 1873; Edward P. Babcock, 1879; David G. Lapham, 1885; David G. Lapham, 1891.

District attorneys, with dates of their election or appointment, have been: William Stuart, 1796; Nathaniel W. Howell, 1797; William Stuart, 1802; Daniel W. Lewis, 1810; William Stuart, 1811; Vincent Matthews, 1813; Daniel Cregar, 1815; John C. Spencer, 1818; Abraham P. Vosburgh, 1821; Bowen Whiting, 1823; Henry F. Penfield, 1832; George W. Clinton, 1835; Nathan Parke, 1836; Thomas M. Howell, 1840; Barzillai Slosson, 1847; James C. Brown, 1849; Stephen R. Malory, 1851; Jacob B. B. Faurot, 1853; Thomas O. Perkins, 1855; Edwin Hicks, 1857; William H. Smith, 1857; Edwin Hicks, 1863; Frank Rice, 1875; Oliver C. Armstrong, 1881-1884; Maynard N. Clement, 1887-90.

### **RENSSELAER COUNTY**

Rensselaer county was set off from Albany county by act of the legislature of February 7, 1791, and was named in honor of the Van Rensselaers, the first patroons of the vast manor which existed for two centuries from the foundation of New Netherland by the Dutch under the name of Rensselaerwyck. The judges of the new county were Anthony Ten Eyck, first judge; John Van Rensselaer, Israel Thompson, Robert Woodworth and Jonathan Brown, judges; and John Knickerbocker

## LEGAL AND JUDICIAL

Jr., and John W. Schermerhorn, Jonathan Niles, Benjamin Hicks, Nicholas Staats, Robert Montgomery, Moss Kent and John E. Van Allen, assistant justices. Moss Kent was the first surrogate, and Albert Pawling the first sheriff. The first court of general sessions and the court of common pleas was held in the tavern of Ananias Platt, in Lansingburg, in May, 1791, being presided over by the first judge, Anthony Ten Eyck. The court adopted thirty-seven rules, provided for a county seal, and after a three days' session adjourned to meet at the public house of Stephen Ashley, in Troy. Thereafter the county courts were held alternately at the two taverns mentioned, until the erection of the court house. The first court of oyer and terminer and general jail delivery was held July 5, 1791 at the Platt tavern in Lansingburg.

From the beginning, local jealousy existed between the people of Lansingburg and those of Troy in regard to the question of the county seat. The people of Troy circulated a subscription paper and secured a subscription of \$5,000 to conform to the terms of the legislature at its session in 1793 providing for the erection of a court house and jail "within sixty rods of the dwelling house of Stephen Ashley in the village of Troy in the town of Troy." This secured the county buildings for Troy. Land was provided and deeded to the supervisors of the county and work on the court house was begun at once, the building occupying the site which was occupied by the new court house in the closing years of the nineteenth century. It has been described as "a handsome, substantial building for its day". While it was in course of erection, proposals for the building of the county jail were advertised and this was built east of the court house. The first court convened in the new court house was that of the common pleas, in June, 1794.

WILLIAM A. BEACH.

(1809-1884).

Eminent Advocate; practiced in Saratoga Springs, afterwards in Troy, and later in New York City; associated with James T. Brady in the defense of General Cole, charged with murder; also defended Frank H. Walworth, on his trial for the murder of his father, Mansfield Tracy Walworth, and also Jesse Billings, charged with the murder of his wife; he was leading counsel for the plaintiff in the Tilton-Beecher trial.







**William A. Beach**



## *HISTORY OF NEW YORK*

As the population of the county increased, the old court house became inadequate, and demands for a more commodious and more convenient building became general. At a meeting of the supervisors in November, 1826, it was resolved to petition the State legislature for permission to raise money to build a new court house at a cost not exceeding \$25,000. This resolution was dependent on the action of the city of Troy in giving assurance that the city would defray two-fifths of the cost of building, in addition to the city's portion of the remainder of the cost. With this understanding and with the further arrangement that the municipal authorities of the city of Troy should have accommodations in the new building, the necessary legal formalities were arranged and the work of construction was entered upon at once.

The old building was torn down and temporary headquarters for the court were engaged in the Methodist meeting house. The new building was of the Doric order of architecture, modelled principally after the temple of Theseus in Athens. It was constructed of Sing Sing marble. It was completed in March, 1831, at a cost of about \$40,000. In it the municipal courts and the sessions of the common council of the city were held. The mayor's court was held in a room on the north side of the ground floor, and near it was the room for the common council, while three rooms in the basement were assigned for the use of other city officers.

Even before it was decided to build a new court house, the necessity for a new jail had become pressing. In 1825 the common council of the city appointed a committee to consider this matter in connection with the supervisors of the county. It was April of the following year, 1826, before the supervisors submitted a proposition respecting the new jail. The plans as

## LEGAL AND JUDICIAL

suggested by the supervisors were accepted, and the city and the county, with their joint committee, contracted for the erection of the jail on Fifth street. The foundation of the new structure was of stone, the superior structure of brick, and the roof slated.

From the bar of Rensselaer have come many men who have attained prominence in all spheres of professional and public life. To the bench of the supreme court have gone "some of the most profoundly learned and wisest judges, and the county has produced some of the most eloquent pleaders who have stood before the bar of justice in this country."<sup>1</sup>

The history of the bench and bar of the county dates back to the earliest days of New York as a State. In an address delivered on the occasion of the celebration of the centennial anniversary of the name of the city of Troy, held in that city in January, 1889, the Honorable Martin L. Townsend said:

"Troy was a mere hamlet at the beginning of the nineteenth century, although her population was steadily growing and the intellectual fibre of her lawyers strengthening and preparing to vindicate in the three decades their right to take rank with the foremost minds of the state."

Before 1820, John Woodworth had been called to Albany to fill the office of attorney general, and at about that time William L. Marcy was also called there to be adjutant general. Under the constitution of 1821, which continued in force until 1847, John Woodworth and William L. Marcy were justices of the supreme court. John P. Cushman, and Nathan Williams, who had studied law and commenced practice there before he had removed to Utica, held the office of circuit judge under the

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1. "Landmarks of Rensselaer County, New York," by George Baker Anderson.

MARTIN I. TOWNSEND.

(1810-1903).

Distinguished Lawyer and Statesman; District Attorney of Rensselaer County, 1842-45; Member Constitutional Convention, 1867; Regent of the University, 1873-1903; Member of Congress, 1874-78; Member of Constitutional Commission of 1900; United States Attorney, 1879-87.





**Martin I. Townsend**





## HISTORY OF NEW YORK

same constitution. William L. Marcy was also United States senator, governor of the State, secretary of war under President Polk and secretary of the state under President Pierce. Under the constitution of 1847, George Gould and Charles R. Ingalls were justices of the Supreme Court.

County judges have been: Anthony Ten Eyck, 1791; Robert Woodworth, 1803; James L. Hogeboom, 1805; Josiah Masters, 1808; David Buell, Jr., 1823; Harmon Knickerbocker, 1828; George R. David, 1838; Charles C. Parmelee, 1847; Archibald Bull, 1855; Gilbert Robertson, Jr., 1859; Jeremiah Romeyn, Fursman, 1882, and Lewis E. Griffith, 1890.

Surrogates of the county have been: Moss Kent, 1791; 1867; E. Smith Strait, 1871; James Forsyth, 1881; Edgar L. John Woodworth, 1793; Jeremiah Osborne, 1803; Alanson Douglass, 1806; David Allen, 1813; William McManus, 1815; Benjamin Smith, 1818; Nicholas McMasters, 1820; Thomas Clowes, 1821; Philip Viele, 1827; Job Pierson, 1835; Cornelius L. Tracy, 1840; Stephen Reynolds, 1844; George T. Blair, 1847; Robert H. McClellan, 1855; Moses Warren, 1859; E. Smith Strait, 1867; Moses Warren, 1871; William Lord, 1883; James Lansing, 1889, and Albert C. Comstock.

District attorneys from 1818 were: William McManus, 1818; Job Pierson, 1821; Samuel Cheever, 1821; Job Pierson, 1823; Jacob C. Lansing, 1833; John Coon, 1836; David L. Seymour, 1839; Martin I. Townsend, 1842; Robert A. Lottridge, 1847; Anson Bingham, 1853; Robert A. Lottridge, 1856; George Van Santvoord, 1859; John H. Colby, 1862; Robert A. Lottridge, 1865; Timothy S. Banker, 1868; Francis Rising, 1872; John C. Greene, 1872; Albert E. Wooster, 1875; Samuel Foster, 1878; La Mott W. Rhodes, 1881; Lewis E. Griffith, 1887, and John P. Kelly, 1889.

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The legal profession of Troy has furnished the following members of congress: Moss Kent, John Bird, John P. Cushman, William McManus, John D. Dickinson, Job Pierson, Hiram P. Hunt, David L. Seymour, Abram B. Olin and Martin I. Townsend. Miles Beach from this county was judge of the court of common pleas of the city of New York. Abram B. Olin was for many years judge of the supreme court of the District of Columbia, and Henry Z. Hayner was chief justice of the territory of Minnesota from its organization until its admission as a State.

### SARATOGA COUNTY

For more than a century past the Saratoga county bar has stood in the front rank in the field of jurisprudence in the great Empire State. Erudite judges have adorned its bench, eloquent advocates pleaded at its bar, and distinguished legal authors and eminent statesmen in State and nation are found on its scroll of members. To recount its history within the limits of this sketch will not permit of more than brief mention of its noted men and the important events during the years that have passed since the organization of the county.

The county of Saratoga was set off from Albany county by an act of the legislature, February 7, 1791, and courts of justice were immediately established by Governor Clinton by the appointment of John Thompson of Stillwater, first judge; James Gordon and Beriah Palmer, of Ballston, Jacobus Van Schoonhoven, of Halfmoon, and Sidney Berry, of Saratoga, judges. Sidney Berry was also appointed surrogate, Jacob Fort, Jr., Sheriff, and Dirck Swart, of Stillwater, clerk.

The courts at this time were styled the circuit court, court

## *HISTORY OF NEW YORK*

of common pleas, oyer and terminer, and court of general sessions. The first court held in Saratoga county was a court of common pleas, which met May 10, 1791, at the residence of Samuel Clark, justice of the peace, in the town of Stillwater, now the town of Malta, on the East Line road, about half a mile south of the hamlet of East Line. The court was presided over by Judges Thompson, Gordon, Palmer and Van Schoonhoven, with John Varnam, Eliphalet Kellogg and Epene-tus White, associate justices.

The first business recorded is the admission of sixteen attorneys, among them being Joseph C. Yates, afterward governor of New York. At the May term in 1792, James Emott was admitted to practice. Some years later he removed from Ballston to Poughkeepsie, was elected justice of the supreme court, and attained eminent distinction as a jurist throughout the State.

The first grand jury empaneled in the county was at the first term of the general sessions held in conjunction with the common pleas court, May 10, 1791, and the first criminal trial which appears in the record was at the November term of the sessions in 1792, and was for assault and battery. The first circuit court and oyer and terminer was held at the residence of Jedediah Rogers, in Halfmoon, July 7, 1791. Chief Justice Robert Yates presided, assisted by all the judges of the common pleas. The next term of this court was held in the Baptist church in the town of Stillwater, June 4, 1792. The third circuit and oyer was held in the Presbyterian church, (the "old red meeting house") of revolutionary fame, in the town of Ballston, July 9, 1793, Chief Justice Yates presiding. The first murder trial in the county was had at this term, Elizabeth Simp-

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## LEGAL AND JUDICIAL

son being tried for the killing of her child. She was adjudged not guilty.

Saratoga county was rapidly increasing in population and importance as one of the political divisions of the State, and having no fixed place for holding the courts, the legislature on the 26th of March, 1794, passed an act for locating the county seat and building a court house and jail. The commission appointed under this act having chosen a prominent eminence on the Middle Line road in the town of Ballston, since known as "Court House Hill", as the location of the county seat, a court house and jail was erected on the site selected at a cost of \$6,750. The building was of wood, two stories in height, fifty feet square, with a one-story wing in the rear twenty by thirty feet. On the first floor were the jailer's living rooms and the cells for prisoners. The second floor was occupied by the court room and two rooms for jurors. The roof was surmounted by a cupola from which it is said could be seen at that time every town then created in the county. The May term of the common pleas and court of sessions for 1796 were the first courts held in this first court house of Saratoga county. The courts continued to be held here until the court house was destroyed by fire during the night of March 23, 1816. Directly opposite the court house a large hotel, for that early day, was erected, which is still standing in good condition, and is now occupied as a farm house.

Among the judges who presided at terms held in the first court house were the famous Chancellor John Lansing, Chief Justices Morgan Lewis, Ambrose Spencer and Smith Thompson. Many distinguished counselors of the early days stood within the bar of the old court house, perhaps the most famous being, Martin Van Buren, afterward governor of New York, United

## HISTORY OF NEW YORK

States senator, and the eighth president of the United States; Thomas Addis Emmet, Daniel Cady and Richard M. Livingston.

On the 14th of March, 1817, an act was passed by the legislature appointing commissioners to re-locate the county seat and build a court house and jail. At this time Ballston Spa, with its famous mineral springs, had become the first watering place of America, and a determined and successful effort was made to locate the county seat at this place, about two miles northeast of Court House Hill. The new court house, erected at a cost of \$10,000, was a brick building similar in plan to the old court house. It was completed in time for the spring circuit court in 1819. The building was enlarged and improved in later years and was occupied until 1889, when it was demolished and the present handsome edifice built on the same site. The first court held in the present court house was the April term of the circuit court and court of oyer and terminer in 1890, the late Justice John R. Putnam presiding.

For thirty-three years, from the erection of the county in 1791 until the year 1824, the public records of the county were kept by the various county clerks at their homes. In 1824 the legislature authorized the erection of "a suitable building for the preservation of the county records", at an expense of \$1,000. This resulted in the building of a stone edifice on Front street, at the county seat, which for forty-two years was designated as the county clerk's office. In 1865, the records having far outgrown the capacity of the office, a handsome brick building was erected on the court house lot on High street, to which the county records were removed in 1866. The new clerk's office, in the opinion of the county officials, was "large enough for all time to come". But with the opening of the twentieth

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century this building had become too small for the proper care of the records, and a few years later, in 1904, the building was enlarged to twice its former size and to-day is one of the best equipped clerk's offices in the State.

The earliest court records of the county deal largely with disputes as to land titles. The county was comparatively newly settled, the surveys under which the land was held having been made since the year 1770, and it was natural that property lines running through an unbroken wilderness should a few years later be brought into question. Prominent men in Albany and New York were among the owners of the land, and before the earliest courts distinguished counsel from those cities frequently appeared. At the circuits held in the "old red meeting house" in the town of Ballston, prior to the building of the first court house, some of the most eminent lawyers of their time were present and engaged in the trial of action for their wealthy clients. Among them may be mentioned James Kent, Brockholst Livingston, Alexander Hamilton and Aaron Burr. But the brightest memories of the Saratoga county bar cluster around the court room in the old court house erected in Ballston Spa in 1819. The county of Saratoga has been the birthplace and home of some of the most distinguished lawyers of the State and nation, and on many an occasion have the walls of the old court room resounded to the loftiest flights of oratory as a Beach, a Hill, or a Porter pleaded the cause of their clients with fervid eloquence.

During this era in the legal history of the county, the last of the great chancellors of the State, Reuben Hyde Walworth, was holding his court at his home "Pine Grove", in Saratoga Springs. Before him came such men as Daniel Webster, William H. Seward, Charles O'Connor, Daniel Lord, Millard Fill-

NICHOLAS HILL.

(1806-1859).

Prominent Lawyer and Law Reporter; District Attorney Saratoga County, 1836-37; published seven volumes of "Hill's Reports" of the Court of Errors and Supreme Court, 1840-45; Member of the famous firm of Hill, Cagger & Porter, of Albany. From 1845 until his death he argued more cases in the Court of Appeals than any other lawyer.

1. The first part of the paper discusses the importance of the study of the history of the English language. It is argued that the study of the history of the English language is essential for a full understanding of the language and its development. The paper then discusses the various factors that have influenced the development of the English language, including the influence of other languages, the influence of social and cultural changes, and the influence of technological advances.



**Nicholas Hill**



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more, Lyman Tremain, and other eminent lawyers. At the age of twenty-two, Chancellor Walworth was admitted to practice in the supreme court, and on his appointment as circuit judge in 1823 he removed to Saratoga Springs, where he resided with the exception of five years spent in Albany, until his death on November 28, 1866. It has been said of him that he "may justly be regarded as the great artisan of our equity laws. In some sense he was the Bentham of America, without the bold speculations and fantastical theory, which, to a certain extent, characterized the great English jurist. What Bentham did in removing the defects in English jurisprudence, Walworth did in renovating and simplifying the equity laws of the United States."

Judge Esek Cowen is known to every member of the bar through his Supreme Court Reports, which are justly prized by the profession. Of his opinions, which so eminently distinguished him as a jurist, it is said that, "in their depth and breadth of research and their strength of reasoning, they are not excelled by those of any judge in England or America." He became a resident of Saratoga Springs two years after his admission to the bar, where he continued to reside until his death at the age of sixty, in 1844.

Other members of the Saratoga county bar who have achieved distinction on the bench are judges John Willard, James Emott, Thomas J. Marvin, Nicholas Hill, Augustus Bockes, John R. Putnam, and James W. Houghton, who was for several years one of the justices of the appellate division of the First, and now sitting in the Third department. William Augustus Beach, "a man of singular prestige, power and eloquence", was born in Ballston Spa. He was admitted to the bar in 1833, and from the beginning of his career took foremost rank as an eloquent advocate. He was elected district attorney

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and served four years. This was the only political office to which he ever aspired, his chosen life work being the practice of his profession as an attorney and counselor. In a life sketch of Mr. Beach is to be found the following: "It has come to be said that among such a list of its most able and distinguished lawyers as one could count upon his finger ends, must be placed the name of William Augustus Beach". A prominent lawyer residing in Washington, after hearing an argument by Mr. Beach in an important case in that city, said: "I have known those great men—Webster, Clay and Calhoun—heard them both at the bar and in the halls of congress, and none of them excelled Mr. Beach in brilliancy and power". In the celebrated action of Theodore Tilton against Henry Ward Beecher, and as senior counsel for the defense in the great impeachment trial of Judge George G. Barnard, before the court of appeals and the senate sitting as a court of impeachment in Saratoga Springs, Mr. Beach stood in the zenith of his legal fame. The matchless eloquence of his final appeals in these cases is seldom equalled and has never been excelled in the annals of jurisprudence. The last trial in which Mr. Beach appeared in the old court room in Ballston Spa, where he began his professional career, was the celebrated Billings murder trial, in which he appeared as one of the counsel for the defendant. His plea to the jury in submitting the case was the crowning achievement of his long professional career of a half century. The name of William Augustus Beach stands high on the scroll of legal fame, and is one of the brightest gems of the Saratoga county bar.

Conspicuous in point of ability and eloquent speech stands the name of John K. Porter, who was born in Waterford, Saratoga county. He was admitted to the bar in May, 1840. He was a brilliant orator and one of the ablest advocates before a



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jury the State has ever produced. In December, 1864, he was appointed to a vacancy in the court of appeals, and in November following was elected to the position by an immense majority, far exceeding the party vote. He resigned in January, 1868, and resumed the practice of his profession in New York City. Standing at the head of the bar of Saratoga county the fame of William A. Beach and John K. Porter spread rapidly, and their talents soon found a wider field, Beach removing to Troy and Porter to Albany. Ultimately both removed to the great metropolis of the nation, where they immediately took rank with Charles O'Connor, William M. Evarts and others, spending their remaining years in New York City.

Oliver L. Barbour is a name familiar to the legal profession throughout the country. Though never engaging largely in the practice of law, he was the compiler of the sixty-seven volumes of Barbour's Supreme Court Reports, three volumes of Chancery Reports, and the author of several other legal works, a valuable legacy left by him to the legal profession.

George S. Batchellor was born in Edinburgh, Saratoga county. He was elected member of assembly when he had barely reached his majority, serving in the legislature of 1859. At the close of the session he began the study of the law and later was admitted to practice. He took an active part in recruiting the 115th New York Volunteers, and went to the front as lieutenant colonel of the regiment. In 1875 President Grant appointed him as the American member of the International Court at Cairo, Egypt. He served for several years with great ability. Returning to this country he again represented the country in the assembly for four years. In 1889 he was appointed assistant secretary of the treasury at Washington, serving throughout the administration of President Benjamin Harrison. In

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1897, President McKinley reappointed him as a judge of the International Court at Cairo, which position he held at the time of his sudden death in Paris, in the summer of 1908.

Two illustrious names in the State and nation are those of John W. Taylor and Samuel Young. In early life they lived as neighbors in the town of Ballston, and both choosing the law as a profession, they began their legal studies at Court House Hill, Young entering the office of James Emott as a student, and Taylor the office of Judge Samuel Cook. Admitted to the bar of Saratoga county about the same time, they entered enthusiastically upon the practice of the law. The eminent legal ability displayed by them was doubtless the stepping-stone to the high honors they achieved in the political arena of the State and nation, as leading statemen of their time.

Mr. Taylor was a member of the State assembly in 1812 and 1813, and at the election in 1813 was chosen to represent Saratoga county in the Thirteenth congress, continuing as a member of the house for twenty years. He succeeded Henry Clay as speaker, and was the only citizen of New York who has ever held the third place in the government. A contemporary of Webster, Clay and Calhoun, a brilliant orator and statesman; a man of rare judgment and experience, he was a leader of the public opinion of the day. In 1840 he was elected to the State senate, succeeding the friend of his boyhood, Samuel Young, who had resigned. While holding this office he was stricken with paralysis and resigned. He died at Cleveland, Ohio, about fourteen years later. He is buried in the cemetery near his home in Ballston Spa.

Samuel Young was elected member of assembly in 1814, and being returned in 1815 was chosen speaker. In 1816 he was appointed one of the canal commissioners of the State,

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serving in this capacity for twenty-four years, during which period the Erie canal was constructed. He was a member of the constitutional convention of 1821. Re-elected to the assembly in 1826, he was again chosen speaker. At this time his neighbor, John W. Taylor, was speaker of the national House of Representatives. In 1833 he was appointed a first judge of Saratoga county. He was elected to the State senate in 1835, and again in 1838 and 1845. He was secretary of state from 1842 to 1845, during which time he was acting superintendent of common schools and laid the foundation of our masterly system of public education. Mr. Young was a regent of the University of New York from 1817 to 1835, when he resigned. He was a public speaker of great force and eloquence, and in great demand throughout the state as an orator on public occasions.

At the semi-centennial of American Independence on July 4, 1826, Colonel Young, at the time speaker of the assembly, presided at the celebration in Ballston Spa, and his fellow-townsmen, John W. Taylor, was the orator of the day. Neighbors in their boyhood and youth, starting together in their legal career, chosen to high political office about the same time, the lives of these two eminent statesmen ran parallel to each other in most singular manner. An honor to the legal profession, serving the State with signal ability, their brilliant careers reflect additional glory on the bar of Saratoga county.

The county of Saratoga has a proud record in the departments of jurisprudence and statesmanship. Has any county furnished greater names than those already mentioned? And to the roll of honor should be added the following: Judges James Thompson, Samuel Cook, James Emott, Deodatus Wright, Judiah Ellsworth, William Hay, Edward F. Bullard, Oran G. Otis, Chesselden Ellis, George G. Scott, James B. McKean, ap-

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pointed by President Grant chief justice of Utah; William L. F. Warren, ex-district attorney, Senator John Foley and County Judge Charles S. Lester; District Attorneys Isaac C. Ormsby, John Van Rensselaer, Theodore F. Hamilton, John Person, Lemuel B. Pike, Neil Gilmour, State superintendent of public instruction for nine years, all of whom have passed on to the bar of the Supreme Judge of all mankind. Prominent in the Saratoga county bar to-day are Supreme Court Justice James W. Houghton, Senator Edgar T. Brackett, ex-Judge J. S. L'Amoreaux, County Judge Nash Rockwood, James W. Verbeck, ex-District Attorneys George R. Salisbury, Winsor B. French and H. E. McKnight, ex-Surrogates, C. A. Waldron and Charles C. Lester, and District Attorney William T. Moore.

In the one hundred and twenty-nine years since 1791, many important actions of more than local interest have been before the courts in Saratoga county, and allusion is here made to some of the most celebrated trials. A suit that drew the attention of the nation to Saratoga county, from the prominence in the literary world of the parties, was that of James Fenimore Cooper against Horace Greeley and Thomas McElrath, proprietors of the New York *Tribune*, for libel the famous author of the "Leather-Stocking Tales" laying his damages at \$10,000. The trial of the action was changed from Otsego county, Cooper's home, to Saratoga county. The suit was tried at the December circuit, 1842, before Judge John Willard. Greeley managed his own case, his summing up to the jury abounding in earnest argument disclaiming any intention of injuring the reputation of Mr. Cooper. The great novelist, who was also a lawyer, followed Mr. Greeley in an eloquent plea, demanding that the libelers of his fair fame be mulcted in heavy damages. Cooper was well known in this locality, being an annual summer visitor

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in Ballston Spa, while Greeley was personally a stranger, but the result was practically a victory for the great editor, the jury awarding Mr. Cooper only \$200 damages and six cents costs, under the charge of Judge Willard that the publication of the libelous article was proven and it was the province of the jury only to measure the damage done to the reputation of the plaintiff.

In 1869 Colonel Walter S. Church, of Albany, representing the Van Rensselaer estate, obtained a writ of ejectment against William Witbeck, from the farm he occupied under a manorial lease, this being one of the numerous "anti-rent" cases which led in several instances to loss of life in Albany and Rensselaer counties. Deputy Sheriff Willard Griggs went with a posse to serve the writ of ejectment on Witbeck, July 26, 1869. A combat took place, several shots being fired on both sides, and Sheriff Griggs was mortally wounded. William Witbeck, his sons Benjamin and John, his son-in-law, Zebulon Bass and a hired man, William Wood, were indicted for murder. District Attorney Banker, of Rensselaer county, procured a change of venue to Saratoga county, and trial was had at a special term of the oyer and terminer held by Judge James in July 1870. The People were represented by Timothy S. Banker, William A. Beach, Matthew Hale and William T. Odell. The prisoners were defended by ex-Judge Edgar L. Fursman, Martin I. Townsend, Henry Smith and Lemuel B. Pike. It was a battle royal of legal giants, and the summing up for the prisoners by Messrs. Townsend and Smith and for the People by Matthew Hale and William A. Beach was a splendid display of exhaustive legal reasoning and brilliant oratory. After deliberating for some hours the jury rendered a verdict of not guilty.

A criminal case of some celebrity in which there seemed to be a miscarriage of justice was the acquittal of the notorious

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Peter Curley, of Troy, charged with the robbery of the Saratoga County Bank at Waterford. It was the work of an organized gang of thieves, circumstances pointing directly to Curley, a well known professional burglar, as leader of the gang. A large amount of bonds were stolen, and the cashier of the bank and his family, who lived in the bank building, were cruelly treated by the burglars. Curley was brought to trial at the oyer and terminer in March, 1873, with Justice Bockes presiding. District Attorney I. C. Ormsby, Lyman Tremain, J. S. L'Amoreaux and E. F. Bullard represented the People. The prisoner was defended by Edgar L. Fursman, Lemuel B. Pike, Miles Beach, William T. Odell, P. H. Cowen, and Henry Smith, of Albany, who summed up the case for the prisoner, Lyman Tremain presenting the case of the People to the jury. The jury disagreed, standing ten for conviction and two for acquittal. Curley was brought to trial again at the following May oyer and terminer, the evidence being the same as on the first trial. The case was summed up for the prisoner by ex-Judge E. L. Fursman and for the People by District Attorney Ormsby. To the astonishment of almost everyone the jury rendered a verdict of not guilty and a few hours later partook of a banquet at one of the village hotels as the guests of Curley. Another peculiar feature of the case was the infatuation for the prisoner which possessed several young ladies of the village, who daily carried flowers to the jail while Curley was confined there, but which the jailer persistently refused to deliver to the prisoner. About two years later Curley was charged with participation in a bank robbery at Barre, Vermont, and to escape conviction turned State's evidence.

Of the twenty-five or more trials for murder in Saratoga county only six persons charged with this crime have suffered

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the death penalty. The murder trial which aroused the greatest public interest and which is one of the "celebrated cases" of our criminal courts, was that of Jesse Billings, charged with the murder of his wife. About eight o'clock in the evening of June 4, 1878, Mrs. Billings was seated in a chair in her home at Northumberland, when a shot fired through the window penetrated her skull, causing death almost instantly. Mr. Billings, one of the prominent men of the county, a merchant and banker, was charged with the shooting, and was confined in the jail at Ballston Spa. He was brought to trial before Justice S. Landon, September 10, 1878. A brilliant array of counsel appeared in the trial. The People were represented by District Attorney Ormsby, Nathaniel C. Moak of Albany, Lemuel B. Pike, John Foley and P. C. Ford. The defendant was represented by Charles Hughes, of Sandy Hill, J. P. Butler, D. S. Potter and Jesse S. L'Amoreaux. The trial occupied twenty-seven days, fifty-eight jurors being examined in securing the jury. A remarkable feature of the trial was the great length of the pleas to the jury; Charles Hughes, for Billings, occupied the attention of the court and jury two and a half days in a brilliantly sustained summing up of the case. For the people Mr. Moak spoke for four days, and was apparently as vigorous in speech at the close of his argument as at the beginning. The case was submitted to the jury Friday evening, and on the following Monday the jury was discharged, being unable to agree.

Billings was released from jail on bail, the bond being in the sum of \$30,000. The case was re-tried at the April term, 1880, Justice Joseph Potter presiding. The case of the People was again in charge of District Attorney Ormsby and Mr. Moak, with L. B. Pike and P. H. Cowen associated with them as counsel. William A. Beach appeared as counsel for Billings in place

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of Charles Hughes, and with him were associated J. S. L'Amoreaux, D. S. Potter and J. P. Butler, who took part in the first trial. The testimony given on the former trial had been generally read throughout the country, and as a result many opinions as to the guilt or innocence of Billings had been formed. It required the examination of 196 jurors before twelve unbiased men were found to sit as jurors to try the case. The trial occupied twenty-two days, five of which were consumed in obtaining the jury. The evidence on both trials was entirely circumstantial. The closing appeals to the jury were made by William A. Beach for Billings, Mr. Moak for the second time presenting the case for The People. In his opening Mr. Moak said: "This case has become one of the most celebrated during the past twenty years." After deliberating for a few hours the jury returned into court with a verdict of acquittal. At this trial the largest number of reporters ever present at a trial in the old court room were seated at the tables provided for the press. The *New York Sun* sent its ablest reporter, Amos Cummings, afterward a member of congress, and the best men on the reportorial staffs of the *Tribune*, *Times*, *World*, *Star*, *Albany Argus*, *Press* and *Knickerbocker*, *Troy Times*, *Troy Press*, were present all through the trial. Five of the county papers were also represented. For a number of years Mr. Beach had only been seen at rare intervals in the court room where he began his practice of the law, and his presence as counsel for the defendant aroused even a greater interest than was manifest at the first trial. He had passed his three-score years and ten, but was in the ripe vigor of all his powers. A reporter wrote of his appearance: "Mr. Beach came into court looking very gray, but still erect, fresh and young and gave a pleasant 'good morning' to the reporters." Mr. Beach began closing his plea to the jury



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with these words: "Forty-seven years ago on this very spot where I am now standing, I commenced my professional career." He then spoke at considerable length in a reminiscent vein, alluding to those with whom he had been associated in former years who had passed away, and to the many trials in which he had taken part in the old court room. Coming to the consideration of the case on trial he spoke with such convincing logic and eloquence that long before he concluded his plea many of the multitude who thronged the court room to its doors were assured of a verdict of acquittal. Of his closing remarks to the jury one of the papers said: "His peroration was one of the most thrillingly eloquent appeals for his client that has ever been delivered in this court house if not in the annals of the American Bar. His last words were: 'Justice is our plea; even-handed, aye, iron-handed, but justice let it be. I trust that by your verdict this man may soon walk forth free and untrammelled. God grant that this may be your verdict.'" This was the last important criminal trial in which Mr. Beach was engaged, his death occurring a few years later.

The case of Martin Foy, Jr., indicted, convicted and electrocuted for the murder of Henrietta Wilson in Saratoga Springs, in May, 1892, possesses some singular features. While confined in the county jail he overpowered the jailor, Nicholas Howland, an elderly man, and made his escape, fleeing to British Columbia and thence to San Francisco. Here he secured a passage to Australia and was to sail the following day. A follower of the races, he could not resist the temptation to visit the Oakland track, where racing was going on. He was recognized by one of the turfmen who knew of the shooting of Miss Wilson, and was arrested by the police at the track. Sheriff Worden went to California, returned with Foy, and again lodged him in

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jail. Meantime Jailer Howland died, and the new jailer, Wilber A. Smith, placed Foy in an iron-clad cell for greater security. In the absence of jailer Smith the janitor went into Foy's cell with his dinner, and was held up by Foy with a dummy revolver, and for the second time he made his escape. His liberty this time was of very short duration, as the alarm was immediately given, and within a half hour he was captured in a pine grove south of the village by the district attorney of the county, John Person. Foy was tried at the January oyer and terminer, 1893, before Justice Leslie W. Russell. District Attorney Person, a young lawyer of great promise, who had assumed the office of district attorney on January 1, tried the case for the People, W. J. Miner and J. W. Hill conducting the defense. Foy was convicted, and suffered the death penalty at Dannemora prison in the following March.

The granting of a franchise by the common council of New York City for the first surface road in Broadway was attended by charges of bribery against several of the aldermen. Indictments were found and trials had resulting in the conviction of some of the accused aldermen. Among those convicted was Arthur J. McQuade, who was tried in New York City, Justice Charles Daniels, of Buffalo, presiding. An appeal was taken to the higher courts, the conviction set aside, and a new trial ordered. The place of trial was changed to Saratoga county, and McQuade was again placed on trial at an extraordinary court of oyer and terminer, held at the court house in Ballston Spa, July 9, 1889. Justice Daniels presided at this second trial. John R. Fellows, district attorney of New York county, his first assistant, McKenzie Semple, and District Attorney Hamilton, represented the People. Edgar L. Fursman, James W. Houghton, Senator John Foley and J. S. L'Amoreaux appeared for the

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defendant. Every lawyer in the case stood in the front rank of the profession, and with one of the ablest judges of the State on the bench, the trial of the action recalled the palmiest days of the bar, when Nicholas Hill, John K. Porter and William A. Beach were in their prime. District Attorney Fellows was born in Mechanicsville, Saratoga county, and his fame as an orator of exceeding brilliancy was well known, while ex-Judge Fursman has very few equals as an eloquent advocate. The trial occupied nine days and was stubbornly contested at every stage of the action. The opening address for the defendant was made by J. S. L'Amoreaux, and the summing up of the case for McQuade fell to the lot of Judge Fursman. In a plea of surpassing eloquence and power he fully sustained the best tradition of the time-honored bar of Saratoga county. Mr. Fellows followed for The People in a masterly address to the jury, justifying the sobriquet applied to him of "the lawyer with the silver tongue". But Judge Fursman's fervid eloquence and convincing presentment of the facts adduced on the trial had won the jury and McQuade was acquitted.

It has been well written: "In the forum of the Saratoga county bar and from its bench have been uttered some of the most glowing periods in our tongue. Its history will ever be sacred in the minds and memories of those permitted to walk within its precincts. Like the Roman standing in the midst of the ancient forum listening in vain for the voices that were wont of old to awaken its echoes, so do we now fail to hear the strains of majestic eloquence which have fallen from cunning lips within the walls of our time-honored court room."

This brief history would not be complete without mention of James W. Horton, who though not a lawyer, was clerk of the courts in Saratoga county for thirty-nine years. Elected county

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clerk in 1845, he was serving the last year of his thirteenth term at the time of his death in February, 1885. Under his long and efficient administration the clerk's office of Saratoga county became widely celebrated as the model clerk's office of the State.

First judges: 1791—John Thompson, Stillwater. 1809—Salmon Child, Greenfield. 1818—James Thompson, Milton. 1833—Samuel Young, Ballston. 1838—Thomas J. Marvin, Saratoga Springs.

Judges: 1791—James Gordon, Ballston; Jacobus Van Schoonhoven, Halfmoon; Beriah Palmer, Ballston; Sidney Berry, Saratoga. 1793—Adam Comstock, Greenfield. 1794—Epenetus White, Ballston. 1803—Samuel Clark, Malta. 1806—John Taylor, Charlton; John McClelland, Galway. 1809—John Stearns, Halfmoon; Nathaniel Ketchum, Stillwater. 1811—William Stillwell, Ballston; Samuel Drake, Halfmoon. 1812—Benjamin Cowles, Hadley. 1813—Ashbel Andrews, Malta; William Patrick, Jr., Stillwater; Elisha Powell, Milton; Ziba Taylor, Saratoga; John M. Berry, Moreau; Abner Carpenter, Ballston, Abraham Moe, Halfmoon. 1815—Thomas Laing, Northumberland. 1816—Jeremy Rockwell, Hadley. 1817—Thomas Dibble, Milton; Herman Gansevoort, Northumberland. 1818—Salmon Child, Greenfield; Abraham Moe, Halfmoon; James McCrea, Ballston; John Prior, Greenfield. 1820—Samuel Cook, Milton; James Van Schoonhoven, Waterford. 1821 Harvey Granger, Saratoga. 1823—Guert Van Schoonhoven, Waterford; John H. Steel, Saratoga Springs. 1826—Nicholas B. Doe, Waterford. 1829—George Palmer, Stillwater. 1836—Thomas J. Marvin, Saratoga Springs. 1838—George G. Scott, Milton; John Gilchrist, Charlton. 1841—Seymour St. John, Providence. 1843—Lewis Stone, Galway. 1845—Wil-

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liam L. F. Warren, Saratoga Springs. 1846—Joshua Mandeville, Waterford.

Supreme court justices: 1855—Augustus Bockes, Saratoga Springs. 1888—John R. Putnam, Saratoga Springs. 1900—James W. Houghton, Saratoga Springs.

Masters in chancery: 1801—Samuel Cook, Ballston. 1805—John Cramer, Halfmoon. 1806—William Carpenter, Providence; Thomas Lee, Jr., Hadley. 1807—Daniel G. Garnsey, Halfmoon. 1808—George Palmer, Jr., Stillwater; Thomas Laing, Northumberland; Eli Smith, Galway; Herman Gansevoort, Northumberland; Thomas Palmer, Milton. 1810—Ely Beecher, Edinburgh. 1811—Elijah W. Abbott, Saratoga. 1813—Nathan S. Hollister, Charlton; Aaron Blake, Saratoga; Epeneus White, Ballston; Joshua Mandeville, Halfmoon; John Gibson, Ballston; Othniel Allen, Providence; Thaddeus Jewett, Galway. 1814—Henry Metcalf, Stillwater; John Metcalf, Northumberland; James Scott, Ballston; Luther Hulbert, Malta. 1815—Esek Cowen, Saratoga Springs; Samuel S. Barker, Providence; Samuel Belding, Charlton; Solomon D. Hollister, Ballston; John Pettit, Greenfield; Benjamin Cowles, Hadley. 1816—William Laing, Northumberland; Nicholas W. Angle, Moreau. 1817—William B. Van Benthuyzen, Saratoga; Bushnell Benedict, Ballston; Robert Sumner, Edinburgh; William Comstock, Northumberland. 1823—William Given, Waterford; Thomas Palmer, Milton. 1824—William L. F. Warren, Saratoga Springs. 1831—George W. Kirkland, Waterford. 1832—Judiah Ellsworth, Saratoga Springs. 1834—Oran G. Otis, Milton. 1836—John A. Corey, Saratoga Springs. 1840—John K. Porter, Waterford; Archibald Smith, Charlton; James M. Andrews, Saratoga Springs. 1841—Perry G. Ellsworth, Saratoga Springs. 1843—Callender Beecher, Milton. 1844—Edward F.

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Bullard, Waterford; Daniel Shepherd, Saratoga Springs. 1846—William L. Avery, Saratoga Springs.

Examiners in chancery: 1821—Harvey F. Leavitt, Saratoga Springs. 1823—Samuel Cook, Milton. 1824—Alpheus Goodrich, Milton; George W. Kirkland, Waterford. 1828—Judiah Ellsworth, Saratoga Springs. 1834—Nicholas Hill, Jr., Saratoga Springs. 1835—Oran G. Otis, Milton. 1837—Sidney J. Cowen, Saratoga Springs. 1840—James M. Andrews, Saratoga Springs; Nicholas B. Doe, Waterford; Archibald Smith, Charlton. 1841—John K. Porter, Waterford; Perry G. Ellsworth, Saratoga Springs. 1843—Thomas G. Young, Ballston. 1844—Daniel Shepherd, Saratoga Springs; Edward F. Bullard, Waterford. 1846—William L. Avery, Saratoga Springs.

County judges: 1847—Augustus Bockes, Saratoga Springs. 1854—John A. Corey, Saratoga Springs, vice A. Bockes, elected Supreme Court Justice. 1855—James B. McKean, Saratoga Springs. 1859—John W. Crane, Saratoga Springs. 1863—John C. Hulbert, Saratoga Springs. 1871—Charles C. Lester, Saratoga Springs. 1877—John W. Crane, Saratoga Springs. 1883—Jesse S. L'Amoreaux, Ballston Spa. 1889—James W. Houghton, Saratoga Springs, re-elected in 1894. 1900—Nash Rockwood, Saratoga Springs, vice J. W. Houghton, appointed Supreme Court justice. 1901—Nash Rockwood, Saratoga Springs, re-elected in 1906.

Surrogates: 1791—Sidney Berry, Saratoga. 1794—Henry Walton, Ballston. 1808—Beriah Palmer, Ballston. 1812—Thomas Palmer, Milton. 1814—Daniel G. Garnsey, Halfmoon. 1815—Thomas Palmer, Milton. 1816—George Palmer, Stillwater. 1834—John W. Thompson, Milton. 1847—John C. Hulbert, Saratoga Springs. 1856—Cornelius A. Waldron, Waterford. 1878—Elias H. Peters, Saratoga Springs. 1892—Charles

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C. Lester, Saratoga Springs. 1907—William S. Ostrander, Saratoga.

District attorneys: 1818—Richard M. Livingston, Saratoga Springs. 1821—William L. F. Warren, Saratoga Springs. 1836—Nicholas Hill, Jr., Saratoga Springs. 1837—Chesselden Ellis, Waterford. 1843—William A. Beach, Saratoga Springs. 1847—John Lawrence, Waterford. 1851—William T. Odell, Ballston Spa. 1857—John O. Mott, Halfmoon. 1860—Charles S. Lester, Saratoga Springs. 1863—Isaac C. Ormsby, Waterford. 1869—Winsor B. French, Saratoga Springs. 1872—Isaac C. Ormsby, Waterford. 1881—John Van Rensselaer, Saratoga Springs. 1884—John Foley, Saratoga Springs. 1887—Theodore F. Hamilton, Saratoga Springs. 1893—John Person, Ballston Spa. Died in office. 1895—James A. Burnham, Ballston Spa. 1899—George R. Salisbury, Schuylerville. 1905—Horace E. McKnight, Ballston Spa. 1909—William T. Moore, Saratoga Springs.

### HERKIMER COUNTY

Herkimer county was set off from Montgomery in 1791. The colonial history of its bench and bar is included in the history of the colony of New York and New Amsterdam, as a whole, and of the counties of Albany and Montgomery. Prior to the organization of the county the judicial affairs of the territory were conducted in Whitestone which was in what afterwards became Oneida county, and there the court house and jail were located. These buildings were erected in 1793-1794, but when Oneida was set off from Herkimer, the buildings became the property of that county, and the records of the entire county were retained by Oneida.

With the founding of Oneida, it became necessary to erect

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a new court house for Herkimer and this, a plain two-story wooden building, was placed on the site in Herkimer village where the court house of modern times was situated. This first building was burned in January, 1834, and the general sense of the community was that of satisfaction for the removal of the dilapidated building which had become a discredit to the village and the county. Two months after the fire, March 31, the legislature authorized the supervisors to borrow funds to the amount of \$4,600 to build a new court house. Francis E. Spinner, Arphaxed Loomis, and Prentice Yeomans were named in the act as commissioners to superintend the erection of the building. This second court house was a brick structure, and sufficed for the needs of the county for about forty years.

In 1873 the old court house was taken down and a new structure designed to accommodate the increasing business of the county was erected on the same site and is the building with which the present generation has been familiar. The plans of the building admirably adapted it for the use for which it was intended, with its offices for the judges and surrogates, rooms for the supervisors and other officials. It cost about forty-five thousand dollars. After the burning of the old court house in 1834, the jail was erected upon a plot adjacent to the court house at a cost of \$10,300. Edmund Barney, Cornelius T. E. Van Horn, Isaac S. Ford, Jacob F. Christman, Warner Folts, Frederick P. Bellinger and Charles Gray were the building commissioners who had charge of the erection of this jail, which was finished in 1835.

Among the members of the bar of the county have been men who attained to distinction in their profession. One of the early judges, Henri or Hendrick Staring, of Schuyler, was a man of note in the revolution and immediately thereafter. He



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was a native of the county and was one of the few survivors of the Oriskany battle. Afterward he held office in the militia of the district and attained to the rank of colonel. When the revolution was over he became active in political affairs, being a delegate to various conventions, and in 1791, upon the organization of the county, was appointed the first judge of the court of common pleas, holding that office during many years.

Another early judge was Sherman Wooster, of Newport. He was appointed a judge of the court of common pleas in April, 1828, but declined a reappointment after holding the office for one term only. In the State assembly and in the State senate, to which he was elected in subsequent years, he made an enviable record. Evans Wharry was prominent in the early history of the county before the revolution. He was a native of Orange county, where he resided prior to the revolution, and settled in Herkimer in 1885 near Little Falls. He was appointed one of the judges of the court of common pleas, and a justice of the peace in 1798, holding those offices until 1805, when he was commissioned first judge, which office he held until he reached the constitutional limit of sixty years.

Another early judge was Edmund Varney, who came from Dutchess county and settled in Herkimer in 1809. He was appointed a justice of the peace in 1812 and held that office twenty-five successive years. He was also clerk of the town of Russia for many years, and for five years until 1823 was one of the judges of the court of common pleas. He was also a supervisor for five years, a master in chancery, a member of the assembly, and elected to the State senate in 1841. Nathan Smith, a pioneer of the town of Fairfield, was a judge of the court of common pleas, justice of the peace in March, 1805, and again in 1808 and 1811. Beginning in 1805 he was a State senator for two

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full terms, and in 1814 was appointed the first judge of the court of common pleas, which office he held until his resignation in 1821.

Other prominent members of the bench and bar of the first century of Herkimer county's history were: George Rosecrantz, Jacob Markel, Michael Hoffman, who besides being district attorney, judge, and member of the State assembly, was also a member of congress for four terms; David Holt, editor and judge; Gaylord Griswold, member of congress in 1803; Simeon Ford, John Frank, Aaron Hackley, Jr., member of the State assembly and member of congress 1819-1823; Ezra Graves, W. Burwell, Abijah Mann, Jr., member of the State assembly and member of congress 1832-1836; Arphaxed Loomis, surrogate, judge, member of the state assembly and member of congress; Charles Gray, judge, master in chancery, and judge of the State supreme court under the constitution of 1846; Elisha Powell Hurlbut, Alexander Hamilton Waterman, Jarvis N. Lake, Clinton A. Moon, James B. Hunt, Hamilton Ward, and George F. Crumby. Judge Robert Earl, whose long career as a judge on the bench of the court of appeals won him merited distinction, was a native of Herkimer.

First judges of the court of common pleas appointed by the governor, beginning with the organization of the county in 1791, were, with the years of their appointments: Henry Starling, 1791; Jedediah Sanger, 1797; John Meyer, 1800; Evans Wharry, 1805; David V. W. Golding, 1810; Nathan Smith, 1814; David Holt, 1821; Henry Brown, 1823; Hiram Nolton, 1825; Michael Hoffman, 1830; Nathaniel S. Benton, 1833; Arphaxed Loomis, 1835; Arunah G. H. Smith, 1840; Ezra Graves, 1845.

County judges under the constitution of 1846 were: Ezra

ROBERT EARL.

1824-1902 .

Lawyer and Jurist: County Judge Herkimer County, 1855-59: Associate Judge old Court of Appeals, 1869: Member Commission of Appeals, 1870-75: Associate Judge Court of Appeals, 1875-92: Chief Judge, 1892-94.





**Robert Earl**



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Graves, 1847 and 1859; Robert Earl, 1855; Volney Owen, 1863; Amos H. Prescott, 1867 and 1878-1883; Rollin H. Smith, 1884-1889; Eugene E. Sheldon, 1890; Irving R. Devendorf, Robert F. Livingston, and George W. Ward.

Surrogates were: Moses De Witt, 1791; Sanford Clark, 1798; Dan Chapman, 1803; Philo M. Hackley, 1807; Abijah Tambling, 1816; Nathaniel S. Benton, 1821; Arphaxed Loomis, 1828; Charles S. Benton, 1837; Lauren Ford, 1841; Ezra Graves, 1845.

District attorneys from 1797 to 1889 were: Thomas R. Gold, 1797; Nathan Williams, 1801; Joseph Kirkland, 1813; Thomas H. Hubbard, 1816; Simeon Ford, 1818 and 1836; Michael Hoffman, 1823 and 1836; George H. Feeter, 1825; Aaron Hackley, 1828; James B. Hunt, 1833; Michael Hoffman, 1836; Simeon Ford, 1836; Dudley Burwell, 1836; Hiram Noltton, 1837; George B. Judd, 1847; Volney Owen, 1850; Lauren Ford, 1856; George A. Hardin, 1858; Clinton A. Moon, 1861; Sewell S. Morgan, 1864; Charles G. Burrows, 1867; Albert M. Mills, 1870; Joseph J. Dudleston, Jr., 1876; Abram B. Steele, 1880; Eugene E. Sheldon, 1886; Irving R. Devendorf, 1889; Arleigh D. Richardson, Adam J. Smith, George W. Ward, Rush F. Lewis, Frank A. Schmidt.

### OTSEGO COUNTY

In February, 1791, the county of Otsego was formed and Cooperstown was designated as the county town. William Cooper was appointed the first judge of the county court. A court house was built at the southeast corner of West and Second streets. It was thirty feet square, the lower story, which contained four rooms, being used as jail, and the whole of the upper story as a court room. The lower story was built of

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square logs and the upper story of framed work. The entrance to the court room was on the north front, with two flights of steps on the exterior of the building, meeting at a platform before a door that opened outward. The jury rooms were in a tavern occupied by the jailer, that stood on the same lot, and was erected the same year. The first sheriff was Richard R. Smith.

This building was superseded by a brick structure erected in 1806-1807, on a site that was then in the extreme western limits of the village, fifty-six feet long and fifty feet wide. The jailor had rooms in the building, and the jail was in the lower story. That court house was destroyed by fire on the evening of December 17, 1840, and in 1841 another was erected on the same site. The old court house, jail and tavern were torn down in 1810 and a block of brick stores erected on the lot. Early in 1841 an endeavor was made by the villages of Hardwick and Portlandville to effect the removal of the county seat from Cooperstown. These efforts were ineffectual, and the new structure was erected at Cooperstown at an expense of about \$10,000. The court house was built of stone and was forty-six by fifty-six feet. The jail and the sheriff's house connected with the court house were also built of stone. The building for the county clerk's office was of brick and in it accommodations were provided for the surrogate.

In 1880 the court house and jail had outgrown their usefulness, and measures were taken to secure a new and more commodious structure. The corner stone for this building was laid with Masonic ceremonies in June, 1880. The first session of the court in this new court house was held in March, 1881.

The first session of the court of common pleas was held June 21, 1791, in the first court house. Judge William Cooper presiding, and he continued to hold office until October, 1800.



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At this first term Jedediah Peck was the assistant judge, with Ephraim Hudson, Joshua H. Britt, John Matthias Brown and Miller Johnston. General Jacob Morris was clerk of the county and was also clerk of common pleas. He was a distinguished revolutionary soldier. Other members of the bar in the county at this time were Abram Ten Broeck, John I. Morgan, James Cochran, Christopher P. Yates, Amaziah Rust, Andrew Wempre, Anthony I. Merwin, and Jacob J. Ford.

The county has been particularly distinguished in several members of its judiciary who have achieved State and national reputation in their professions. Judge George Morrell, who was county judge in 1828, removed to the State of Michigan in 1833, and there was one of the judges of the supreme court of the State. Judge Samuel Nelson, who was appointed circuit judge of New York State in 1823, became a resident of Coopers-town in 1825, and made that his home thereafter. His name was particularly conspicuous in the history of the bar of the State as a chief justice of the supreme court in 1837 and in 1845, an associate justice of the supreme court of the United States. Judge Eben E. Morehouse was particularly noted both on the bench and at the bar. He was district attorney for ten years, and was a judge of the supreme court in the Sixth district after 1846. Schuyler Crippen, who was a native of Worcester, in this county, was elected justice of the supreme court of the State in 1851.

County judges from the organization of the county have been: William Cooper, 1791, Joseph White, 1800; John C. Morris, 1823; George Morrell, 1827; James O. Morse, 1832; Jabez D. Hammond, 1838; Charles C. Noble, 1843; James Hyde, 1847; Samuel S. Bowne, 1851; Levi C. Turner, 1855; Edwin M. Harris, 1862; Elijah E. Ferry, 1863; Hezekiah Sturges,

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1867; Samuel S. Edick, 1871; Samuel A. Bowen, 1877; George Scramling, 1883; Hartford D. Nelson, 1888-1893; Burr Mattice, 1894-1895; James W. Barnum, 1896; 1897-1902 and 1903-1908; Abraham L. Kellogg, 1909.

Surrogates of the county since 1791 have been: James Cannon, 1791; Moss Kent, 1794; Philip Vandever, 1804; Ferdinand Vanderveer, 1805; Ambrose Clark, 1808; Billey Williams, Jr., 1813; Ambrose L. Jordan, 1815; Nathaniel Fenton, 1818; William G. Angel, 1821; Elisha Foote, 1824; George A. Starkweather, 1833; James Brackett, 1841; Schuyler Crippen, 1845; Hiram Kinne, 1847; Thomas McIntosh, Jr., 1855; Edward M. Card, 1863; Byron J. Scofield, 1867; Thomas H. Keyes, 1877; Albert C. Tennant, 1883; Albert C. Tennant, 1889-1894; Chatfield Leonard, 1894; Lynn J. Arnold, 1895-1900; Nathaniel P. Willis, 1901-1906 and 1907.

District attorneys from the time of the first constitution have been: Ambrose L. Jordan, 1818; Robert Campbell, 1820; Samuel Chase, 1821; E. B. Morehouse, 1829; Schuyler Crippen, 1837; John B. Steele, 1845; Dewitt C. Bates, 1847; Elijah Brown, 1850; Louis L. Bundy, 1853; Edwin Countryman, 1859; James A. Lynes, 1862; Samuel S. Edick, 1865; Samuel A. Bowen, 1871; Philo Benedict, 1877; Robert M. Townsend, 1880; Clarence L. Barber, 1883; Charles T. Brewer, 1887-1889; Burr Mattice, 1890-1892; Frank L. Smith, 1893-1895 and 1896; Tilley Blakely, 1896 and 1897-1899; Merritt Bridges, 1900-1902 and 1903-1905; Ulysses G. Welch, 1906-1908 and 1909.

### TIOGA COUNTY

Tioga county was created by the act of the legislature in 1791, and in that act it was provided that there should be in the county each year two terms of the court of common pleas

## HISTORY OF NEW YORK

and the court of general sessions. It was directed that the first terms should be held on the fourth Tuesday of June and January of every year at the house of George Hornwell in Chemung, now in Chemung county. The act also provided that the court house and jail should be erected at such place as the judges, justices and supervisors should direct and appoint. In July, 1791, in conformity to the provisions of this act, a site was selected in the village of Chenango, a small settlement on the west side of Chenango river, in the town of Union. An act of the legislature in February, 1792, authorized the appointment of commissioners to superintend the building of the new court house and jail, and at the same time authorized the courts to be held at the house of Nehemiah Spalding pending the time when the new court house should be completed. Under the provisions of this act the court house and jail were erected in 1793.

Local jealousies sprang up among the inhabitants of the county as to the permanent location of the new county buildings. The people of Chemung secured temporary victory by the act of February, 1791, but in 1792 the people of Nanticoke attained the ascendancy. The inhabitants of Chemung at once went to work and constructed a building for the jail at Newtown Point, in their town, and secured from the legislature authority to hold the courts alternately at the house of Joshua Whitney, in Chenango, in the town of Union, and in the new jail building at Newtown Point. Confusion arose from this arrangement, and the legislature being again appealed to in 1794 and 1795, changes were made in regard to the location of the offices of the county and in regard to mileage fees to and from the court. Chenango village was, however, successful in retaining the new court house and jail and the location of the courts until 1801.

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In that year an act of the legislature divided the county into two jury districts and authorized the holding of the courts at the court house "to be erected at Chenango Point in the town of Chenango, instead of at the house of Joshua Whitney, in the town of Union, and in the county house at Newtown, alternately."

After Onondaga county, in 1794, Chenango county in 1798, and Broome county in 1806, were taken from Tioga, a legislative act of 1806 directed that the provisions for two jury districts in the county of Tioga should be abolished and that the courts for the county should be held at the court house in Newtown. That it would be necessary soon to construct new county buildings was clearly manifest, and the town of Spencer began to contest with the Union community for the location of the county seat. Newtown became Elmira by act of legislature in 1808, and in 1811 commissioners appointed to locate a new county seat, determined upon Spencer for that purpose. Joshua Ferris, Isaac Swartout, and Samuel Westbrook were appointed commissioners to superintend the erection of a new building.

The new court house was built under the personal supervision of Samuel Westbrook, and cost \$5,595. A wooden building two stories high, it was erected upon a plot of two acres situated in Spencer. On the ground floor were four apartments, one of which was used for the prison for criminals, and another as a prison for debtors; the other two for the jailor's apartments. The second story contained the court room proper and two jury rooms.

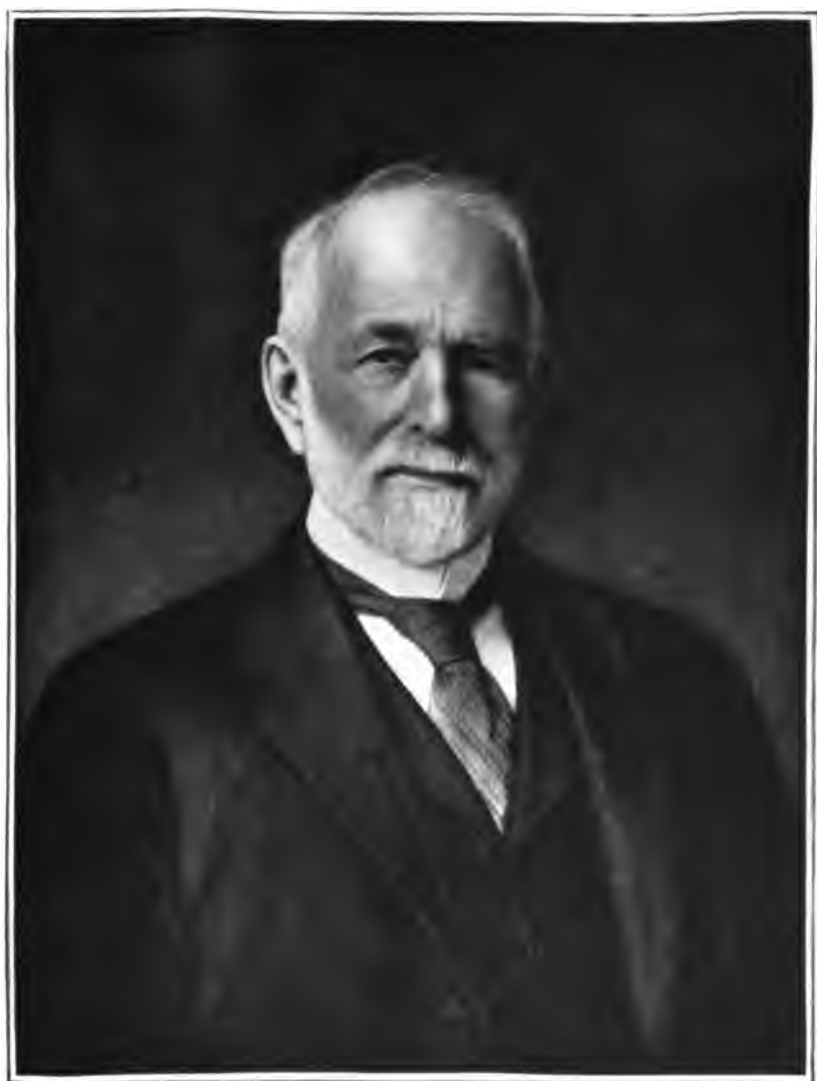
Strife still continued between Elmira and Spencer, and in 1812, when the county was divided into jury districts, it was ordered that the courts should be held in Elmira and Spencer alternately. In January, 1821, the court house in Spencer was destroyed by fire, and there were suspicions that the fire was pur-

BENJAMIN F. TRACY.

(1830—).

Lawyer, Soldier and Statesman; District Attorney Tioga County, 1854-59; Member of Assembly, 1861-62; Brigadier General of Volunteers in Civil War; United States Attorney, 1866-73; Judge Court of Appeals, 1881-82; Secretary of Navy in Harrison's cabinet, 1889-93.





**B. F. Tracy**





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posely set at the instigation of some of the people of Elmira, as a move in the contest for having the county seat transferred to that town. To take the place of the court house which was destroyed, a temporary building, one story high was erected, and this was used for court purposes until the spring of 1822.

In the meantime the legislature, by act of April 12, 1812, exchanged the names of the towns of Owego and Tioga, one for the other, as they have since been known. By act of March 22, 1822, the construction of new court houses and jails in both Elmira and Owego were authorized, the former for the western district of the county, and the latter for the eastern district. It was also directed that the one for the eastern district should meantime be held at the hotel of Erastus S. Marsh, which was situated on the subsequent site of the Ah-wa-ga House, Owego. Courts for the western district continued to be held in Elmira until March 29, 1836, when that part of Tioga county was taken off, and made into Chemung county.

In 1822 the trustees of Owego deeded to the supervisors of the county the ground in Owego village upon which to erect the new sheriff's residence and jail. The court house was completed in 1823. It fronted on Court street and had a hall running through its center from east to west. On the north side of the hall were the sheriff's living rooms and an office; on the south side were two jail rooms and the kitchen. The court room proper occupied the entire upper floor. In March, 1851, the supervisors decided to build a new sheriff's residence and jail adjacent to the court house. The jail, a building of brick, lined with thick oak planks, ironspiked and confined by bars of iron, was built in the following year.

In the summer of 1852, the court house was repaired and remodeled. The judges' bench and the bar were removed to the

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east end of the court room. A cupola was built upon the roof at the west end of the court house, and in this in 1855 a bell was hung. The court house and jail continued in use until 1868, when the grand jury presented an indictment against them as unsuitable and inconvenient for their purpose. Measures were taken in the following year to procure plans for a new court house and December, 1870, the supervisors voted to proceed to this work. The successive steps necessary were taken from time to time, and finally the elaborate court house known to the present generation in Owego was constructed in 1871-1873. The building was accepted by the supervisors on November 26, 1873, its total cost of construction and fitting being \$65,318. It was not until 1881 that conclusive measures were taken to build a new jail, and plans for that building were adopted in April, 1882. The new structure was erected in 1882-1883, being completed in March of the last named year, at a total cost of \$22,739. The sheriff's residence is built of brick, and joined to it is the jail proper, built of solid stone masonry.

First judges of the court of common pleas were: Abram Miller, 1791; John Patterson, 1798; John Miller, 1807; Emanuel Coryell, 1810; Gamaliel H. Barstow, 1818; Silas Hopkins, 1823; Latham A. Burrows, 1825; Grant B. Baldwin, 1828; John R. Drake, 1833; Stephen Strong, 1838; Alanson Munger, 1843.

County judges since 1846 have been: Charles P. Avery, 1847-1855; Stephen Strong, 1856-1859; Thomas Farrington, 1860-1871; Charles A. Clark, 1872-1883; Charles E. Parker, 1884-1889; David T. Easton, 1887; Howard J. Mead, 1888; George F. Andrews, 1906.

Special judges have been: Charles A. Munger, 1853-1855; Alanson Munger, 1856-1858; William F. Warner, 1859-1861; Alanson Munger, 1862-1864; Charles A. Munger, 1865-1867;

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Adolphus G. Allen, 1868-1870; James B. Caryl, 1871; J. Newton Dexter, 1872-1874; Jacob B. Floyd, 1875-1877; J. Newton Dexter, 1878-1880; D. Wellington Allen, 1881-1883; Adolphus G. Allen, 1884-1886; F. Shoemaker, 1887-1889.

District attorneys of the county have been: William Stuart, 1796; Vincent Matthews, 1813; John L. Tillinghast, 1818; William Maxwell, 1822; Eleazer Dana, 1823; Aaron Konkle, 1826; Andrew K. Gregg, 1835; Stephen Strong, 1836; Ezra S. Sweet, 1838; John W. Taylor, 1841; George S. Camp, 1843; Stephen Strong, 1844; Ezra S. Sweet, 1847; Alanson Munger, 1850; Benjamin F. Tracy, 1853; Delos O. Hancock, 1859; Isaac S. Catlin, 1865; Delos O. Hancock, 1867; Eugene B. Gere, 1870; Lyman Settle, 1873; Howard J. Mead, 1880; John G. Sears, 1886; Jerry S. Gross, 1888; Frank A. Darrow, 1891; Oscar B. Glezen, 1897; Stephen S. Wallis, 1903; Frank S. Beck, 1909.

Surrogates, with dates of their appointment or election, were: John Mersereau, 1791; Balthazar De Haert, 1798; William Woodruff, 1802; William Jenkins, 1805; Caleb Baker, 1806; Robert Lawrence, 1808; Isaac S. Boardman, 1820; Robert Lawrence, 1821; Charles Baker, 1825; William Maxwell, 1829; Thomas Farrington, 1835; Nathaniel W. Davis, 1840, and Alanson Munger, 1844.

### ONONDAGA COUNTY

As an independent county, Onondaga came into existence in 1794. Previous to that time it comprised the western part of Herkimer county and the early history of its courts is included in the history of the courts of Herkimer. As its boundaries were fixed in 1794 the county included the military tract which now embraces all the territory of the counties of Seneca, Cayuga,

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Cortland and Onandago, and parts of Tompkins and Oswego counties.

As soon as the county had been settled, courts of common pleas and general sessions were established and ordered to be held alternately on the first Mondays in May and November of each year, at the house of Reuben Patterson, in the town of Manlius, and at the house of Seth Phelps, in the town of Scipio. Reuben Patterson kept a tavern. At that time there were no lawyers in the county, and no court house or other county buildings, and prisoners, whether retained on civil or criminal cases, were confined in the Herkimer county jail.

The first court held in the county under the new organization was in the corn house of General Asa Danforth, on the first Monday in May, 1794. On this occasion there were present Seth Phelps, first judge, and John Richardson, Silas Halsey and William Stevens, judges. Moses De Witt, who had been appointed judge of the Onondaga common pleas, was present. Thomas R. Gould and Arthur Breeze were the only lawyers present.

The first court of oyer and terminer for the new county held its session in the house of General Asa Danforth, the Reuben Patterson house, on July 21, 1794. Those present were Egbert Benson, one of the judges of the supreme court for the State of New York, Seth Phelps, and Andrew Englis, justices of oyer and terminer and general gaol delivery for the county. The lawyers in attendance came from Whitestone and Herkimer. It is part of the record that "Judge Benson made an eloquent charge to the grand jury", the members of which jury were Walter Wood, foreman, Comfort Tyler, Isaac Van Vleck, Elias Fitch, Moses Carpenter, William Ward, Jonathan Wilkinson, Cyrus Kinne, Seere Curtis, Victory S. Tousley, Amos Stanton, Henry Moore, James Geddes, Ryal Bingham and Reuben

## HISTORY OF NEW YORK

Patterson. Only one indictment was found, that being for assault and battery with intent to rob. The prisoner was found guilty and sentenced to two months' imprisonment. Many officers of the court were conspicuous by their absence and nineteen petit jurors, four grand jurors, two constables and three justices of the peace were fined for not being present.

The next term of the circuit court was held at the house of Seth Phelps, in Scipio, September 7, 1795. John Lansing, judge of the supreme court, presided, and on the bench with him were Seth Phelps, John Richardson and William Stevens, justices of the common pleas. Egbert Benson, judge of the supreme court, held the next term at the house of Reuben Patterson, June 14, 1797, and on the bench with him were Seth Phelps, William Stevens, Asa Danforth and Egbert Tyler. Judge James Kent held the next circuit at the house of Seth Phelps, in Scipio, June 12, 1798, and on the bench with him were Seth Phelps, William Stevens and Seth Sherwood, judges of the common pleas.

Courts were held at different houses in Onondaga Hollow,—as, for example, those of Asa Danforth, Reuben Patterson, Samuel Tyler, and John Adams,—from 1794 to 1805. It appears from the records that legal business and especially criminal business in the first two years of the history of the county were extremely light. The terms of court were infrequent, and the lawyers continued to be non-residents, many of them coming from a considerable distance to appear before the court.

By the beginning of the nineteenth century legal business had very largely increased, so that the need of proper court accommodations became pressing. A movement for a court house and jail was begun as early as 1801, and in April of that year a law was passed by the legislature authorizing the board of

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supervisors to raise \$3,000 for that purpose. The usual strife between different villages in the county as to the location of the new building began and was carried on with the customary crimination and recrimination, and charges and countercharges, in regard to the accessibility and desirability of the different localities.

The residents of Onondaga Hill won out in the end, and steps were at once taken for the erection of the buildings. A square piece of ground near the center of the village was selected for the location, and the building, which was a frame structure fifty feet square and two stories high, was erected and enclosed in 1802. A temporary floor was laid and courts were held there in 1803. The work of carrying the construction of the building to completion dragged along through several years, and meantime the court was accommodated as best could be in the unfinished structure. It was 1804 before the court room was finally in condition to be comfortably used, and some two years later the contract was made for the iron work on the cells of the jail which, however, were not entirely finished until 1810. The entire cost of the building was \$10,000, and it was used for its original purpose until 1829, when it was finally torn down. James Beebe, a revolutionary soldier, was the first jailor. He was succeeded by Madison Butts.

In 1825 Syracuse began an active campaign to have the county seat removed from Onondaga Hill. Several other villages came into lively competition for the honor, each determined that the new court house should be located within its precincts. The controversy finally settled down to a question of Salina or Syracuse. In 1825 the efforts of Onondaga Hill were successful in securing the passage of a bill through the legislature to have the court house built in that village but Governor Clinton vetoed the bill. The controversy continued una-

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WILLIAM C. RUGER.

(1824-1892).

Lawyer and jurist: Chief Judge Court of Appeals, 1882-92.

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**William C. Ruger**



## *HISTORY OF NEW YORK*

bated for several years and active measures were taken by the supporters of the different towns desirous of securing the honor of being the county seat. Finally, in March, 1827, it was determined that the new court house should be established somewhere in the valley, which meant either in Salina or Syracuse. Tenders of land and of money were made by both of the villages, and as a final compromise the supervisors decided that the new court house should be erected on a lot of land lying between the two towns. Under the direction of Commissioners John Smith, Thomas Starr and Samuel Forman, the building was erected.

The plan for the county buildings included a jail, and this the commissioners decided to erect of stone, fifty feet square, and two stories high, with hall and staircase in the center. The south half was for the jailor's dwelling and the north half for strong stone cells, the second story over the cells being designed for apartments for debtors and witnesses. The court house was planned to be of brick, sixty-four feet square, with large columns on the west side, and two stories high. The lower story was divided into four apartments, while the second story was entirely devoted to the court room, excepting the steps for the landing of the stairs, and small jury rooms in the corner. The judge's bench was on the south side, opposite the entrance.

For these buildings bids were received in the spring of 1829, and John Wall was awarded the contract, which was finished early in that year. L. A. Cheney and Samuel Booth had the contract for the mason work, and David Stafford, the contract for the carpenter work, on the court house and this was finished and ready for use for the year 1830. The first court was held in it May 13, of that year, Judge Earl presiding. The total cost of the building was something over \$27,000. The

## LEGAL AND JUDICIAL

building was an imposing one for that time, and could be clearly seen by looking north on Salina street from as far south as Onondaga street, it having the appearance from that direction of standing in the middle of Salina street.

Inconveniences attendant upon the location of the new court house which was not near the centre of either of the most important villages of the county soon became so marked that agitation for the change was renewed in the most vigorous manner. Syracuse had grown so much in population, wealth and importance that it had far outstripped its earlier rival. Naturally then, when the final plans for the change of location were agreed upon, about the year 1845, there was comparatively little opposition to the location being the center of the larger city. It was not, however, until fully eleven years later that the matter was finally and conclusively determined.

In February, 1856, some person who has been referred to as one "with the public welfare at heart," set fire to the old court house, and it was burned to the ground. The necessity for a new building being, therefore, immediately imperative, the subject was taken up promptly and vigorously by the board of supervisors, and without much delay the site of the present court house in the city of Syracuse was selected. The new building was constructed of Onondaga limestone, and finished in 1857 at a cost of \$37,750. For many years it served its purpose satisfactorily, but eventually many important changes were made in the interior to meet the demands of increased business, and for modern accommodations. At the time of its erection the court house was considered a remarkably fine building, and with the changes that have been made in it it has fully answered its purposes for more than fifty years. But in the beginning of the nineteenth century it is felt that it has outlived its useful-

## HISTORY OF NEW YORK

ness and is no longer suitable for its purpose. Adjoining the court house is a building for the accommodation of the court of appeals library, the judges chambers, and some public officers. This addition was made in 1883, and other improvements were made in the building in 1889.

About the year 1830 the "Chancellor's Library," as it was called, came into existence by act of the legislature, the unclaimed fund of the old court of chancery being devoted to the purpose. The constitution of 1846 abolished the court of chancery, and a law passed April 9, 1849, gave the custody of the accumulated library to the court of appeals in these terms: "The library called the Chancellor's Library shall continue to be a public library under the name of the Library of the Court of Appeals." This act authorized the judges of the court of appeals to divide the library and locate it in two suitable places west of the State capitol. The court appointed George F. Comstock and Samuel L. Selden a committee for that purpose, both of whom were afterwards judges in that court. The general basis of the division was that of "duplicate books and such others as the judges may think proper should be taken for the new library." The act also provided that three-fourths of the fund of interest that had accumulated in the court of chancery and known as the Chancellor's Library Fund, should be devoted first to the expense of carrying out the provisions of the law, and then to the enlargement and improvement of the library. This division was carried out.

The books thus conveyed to the Syracuse Library were deposited in the large room on the first floor of the court house. The remainder were taken to Rochester, and the other library established in that city. With the completion of the addition to the court house in 1884, the library was removed to its pres-

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ent commodious and handsome rooms. Since the library was established in Syracuse, many valuable additions have been made. The librarians have been William H. Moseley, Richard Woolworth. C. H. Sedgwick and T. L. Morgan, who assumed the position in 1885.

In the early part of the nineteenth century the Onondaga bar embraced such brilliant attorneys and counsellors as John Wilkinson, Harvey Baldwin, John G. Forbes, E. W. Leavenworth, B. Davis Noxon, Peter Outwater, Jr., Henry Davis, Jr., Schuyler Strong, Richard Woolworth and Charles A. Baker, of Syracuse; Thaddeus M. Wood, Daniel Moseley, Jonas Earl, Samuel Forman and William H. Sabine, of Onondaga; Victory Birdseye, Daniel Gott, and Daniel Wood of Pompey; David D. Hillis, Grove Lawrence and James R. Lawrence, of Camillus; Samuel H. Hammond and Isaac T. Minard of Baldwinsville; Nicholas P. Randall, Samuel L. Edwards, John Fleming, LeRoy Morgan, and Henry C. Van Schaak, of Manlius; Sanford C. Parker and George C. Stanbury, of Marcellus; Freeborn G. Jewett, Augustus Kellogg, Daniel Kellogg and Lewis H. Sanford, of Skaneateles; Thomas G. Alvord, Jerome J. Briggs, Enos D. Hopping and A. C. Griswold, of Salina; Reuben Farnum, of Elbridge; Hicks Worden, of Fayetteville; Elijah Curtis, of Geddes, and William Porter, of Jordan.

In the middle of the century the bar of this county was larger and even stronger than ever. Some of those who had made it distinguished in the preceding years still survived, and with them were others who were becoming not less distinguished in professional standing. Among these were Charles B. Sedgwick, Daniel Pratt, David J. Mitchell, George F. Comstock, Charles Andrews, Thomas T. Davis, George N. Kennedy, Henry S. Sedgwick, James Noxon, Harvey Sheldon, John Ruger, Wil-

## *HISTORY OF NEW YORK*

liam J. Hough, James W. Nye, L. Harris Hiscock, Frank Hiscock, William J. Wallace, Joseph T. Sabine, Henry S. Fuller, N. F. Graves, Daniel F. Gott, Hamilton Burdick, James S. Leach, C. M. Brosman, Richard Rayner, Daniel P. Wood, R. H. Gardner, Israel S. Spencer, Henry Reigel, and Z. L. Beebe.

County judges, with the dates of their appointment or election, have been: Seth Phelps, 1794; Reuben Humphrey, 1804; Dan Bradley, 1807; Joshua Forman, 1811; Gideon Foreman, 1813; Nehemiah H. Earll, 1823; Samuel L. Edwards, 1831; John Watson, 1833; Grove Lawrence, 1838; Daniel Pratt, 1843; James R. Lawrence, 1847; Richard Woolworth, 1850; Israel Spencer, 1850; Richard Woolworth, 1854, and Henry Riegel, 1862.

Surrogates, with dates of their appointment or election, have been: Moses De Witt, 1794; Thomas Munford, 1797; Thaddeus M. Wood, 1799; George Hall, 1800; Medad Curtiss, 1810; George Hall, 1811; James Porter, 1822; Freeborn G. Jewett, 1824; John Fleming, Jr., 1831; Isaac T. Minard, 1840; David D. Hillis, 1844; Isaac T. Minard, 1847; L. Harris Hiscock, 1851; Amasa H. Jerome, 1855; Samuel D. Luce, 1859; Oscar L. Sprague, 1863; DeWitt C. Greenfield, 1865; Cyrus Sweet, 1869, and George R. Cook, 1874.

District attorneys, with the dates of their appointment or election, have been: Victor Birdseye, 1818; Jerome L. Briggs, 1836; William J. Dodge, 1841; Le Roy Morgan, 1843; Henry Sheldon, 1847; Rowland H. Gardner, 1850; Charles Andrews, 1853; Henry S. Fuller, 1856; Frank Hiscock, 1859; William H. Gifford, 1862; Levi W. Hall, 1865; Frederick A. Lyman, 1868; William P. Goodelle, 1871; William James, 1874; Nathaniel M. White, 1877; Harrison Hoyt, 1880.

## LEGAL AND JUDICIAL

### SCHOHARIE COUNTY

Schoharie county was formed by act of the legislature in April, 1795. Its territory consisted of portions of Albany and Otsego counties, and it was named Schoharie after the principal stream running through it. The council of appointment on June 6, 1795, appointed the following officers: first judge, William Beekman; assistant judges, Adam B. Vroman, John M. Brown, Peter Sternburgh and Jonathan Danforth; surrogate, Stephen A. Becker; sheriff, Jacob Lawyer, Jr.; clerk, Joachim G. Staats.

As the county was without public buildings, the first court of general sessions was held at the house of Johannes Ingold, inn keeper, on May 31, 1796. William Beekman, first judge, presided, and according to the records, the assistant judges who sat with him on the bench were Adam B. Vroman, Jonathan Danforth, Peter Swart and Marcus Bellinger. The following month of June the first court of oyer and terminer ever held in the county convened at the same place, Justice John Lansing, Jr., of the supreme court, presiding.

Measures were taken in the latter part of 1796 to have a court house and jail built, but it was not until April, 1798, that the legislature passed an act authorizing the supervisors to tax the county to the extent of \$2,000 for this purpose. Jacob Lawyer, Jr., Jost Boist, Jr., Peter Snyder, John H. Shafer and William Thrall were commissioned to superintend the work of construction. It was not until late in 1800 that the new building was in condition to be occupied, and even then it was not fully completed. The legislature in March, 1801, authorized further expenditure of money and the court house and jail, when fully completed, cost \$5,000. It was a three-story stone building on the site of the court house of modern times. A belfry was in



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the center of the roof, but otherwise it was a plain, simple building. Prisoners were confined in the jail, which was located in the third story. There, in 1845, George Burton, accused of grand larceny, was imprisoned, and made an attempt to escape by burning the lock from the wooden door of his cell. The result was a fire which consumed the building and from which the prisoner was rescued with difficulty.

In the following year another building was erected of more pretentious appearance. It was built of stone, and in it were rooms for the courts, the supervisors and the sheriff. A jail was built in the rear and, although a small structure, was sufficient for the purpose for which it was intended down to modern times.

In 1870 a destructive fire occurred in the village of Schoharie, and before it was subdued the flames reached the court house and seriously damaged that building. In this exigency the citizens of Cobleskill made efforts to have a new court house erected in that village, but Schoharie brought sufficient influence to bear upon the board of supervisors to retain the county seat. A new building was put up of blue limestone, three stories high, and considered fire proof. On the first story were arranged the offices of the surrogate and county clerk, while upon the second floor were placed the supervisor's room, the sheriff's office, and the sheriff's living apartment and on the third floor a spacious court room. The old jail which was built in 1846 escaped the fire of 1870 and is still in use.

The first attorneys located in the county were George Tiffany and Jacob Gebhard.

The First judges of the court of common pleas, beginning in 1795, with the years of their appointment or election, were: William Beekman, 1795; John C. Wright, 1833; Charles Good-

## LEGAL AND JUDICIAL

year, 1843; Demosthenes Lawyer, 1847; Lyman Sanford, 1855; William C. Lamont, 1863; Charles Holmes, 1871.

Assistant judges from 1795 to 1846, with the years of their appointment were: Adam B. Vroman, John M. Brown, David Sternbergh and Jonathan Danforth, 1795; Peter Swart, 1795; John Bauch, 1796; Marcus Bellinger, 1796; John Ries, 1797; Peter Snyder, 1797; Lawrence Lawyer, Jr., 1798; Henry Schaeffer, 1798; Peter Vroman, 1799; Harmonus Bouck, 1799; Joseph Borst, 1800; Jesse Shepherd, 1804; Olney Briggs, 1816; Henry Hager, 1816; Isaac Hall Tiffany, 1820; John Brewster, 1819; John Reynolds, 1819; Henry Becker, 1819; Elias Holliday, 1820; N. P. Tyler, 1820; Marvin Judd, 1823; Thomas P. Danforth, 1823; William Mann, 1830; Robert Eldridge, 1837; Harvey Watson, 1838; John Westover, 1838; Jonas Krum, 1840; Martines Mattice, 1843; Nathan T. Rosseter, 1845.

Surrogates from 1795 to 1846, with the years of their appointments, were: Storm A. Becker, 1795; John Gebhard, 1811; Storm A. Becker, 1813; John Gebhard, 1815; William Mann, 1822; Henry Hamilton, 1832; Thomas Smith, 1840; Demosthenes Lawyer, 1844.

District attorneys from 1818 to the present time, with the years of their appointment or election, have been: Henry Hamilton, 1818; David F. Sacia, 1821; Thomas Lawyer, 1822; Jacob Houck, Jr., 1831; Robert McClellan, 1836; Benonai Spafford, 1837; William A. Sternberg, 1844; Peter S. Danforth, 1845; William H. Engle, 1847; Joseph Mackey, 1850; John B. Strain, 1853; Nathan P. Hinman, 1856; Stephen L. Mayham, 1859; William H. Young, 1862; Henry C. Cook, 1868; Albert Baker, 1869; William H. Baldwin, 1874; William E. Thorne, 1877; Alonzo B. Coons, 1880.

## HISTORY OF NEW YORK

### STEUBEN COUNTY

In January, 1789, the legislature passed an act dividing Montgomery county, erecting that portion of the county west of Seneca Lake into Ontario county. Within seven years the rapid settlement and growth of towns in that territory compelled another division of the new county, and Steuben was set off from it in 1796. At that time Steuben had a population of about one thousand, but within four years the population had increased to a total of two thousand. After the erection of the county the complete civil organization was promptly affected. The first officers were William Kersey, first judge; Abraham Bradley and Eleazer Lindley, associate judges; George D. Cooper, county clerk; William Dunn, sheriff; and Stephen Ross, surrogate.

The village of Bath was designated as the county seat, and provision was made for the county buildings and for other public purposes. In Bath the court house was completed and occupied for court purposes on the first of June, 1796. The building was of frame, one and one-half stories high, with two wings, and served the necessities of the county until 1828, then being superseded by a more substantial brick structure, the latter, however, being destroyed by fire in October, 1859.

Following that disaster the present attractive court house was erected in 1860. In 1796, also, the first county jail, a log building, was erected and stood in the rear of the subsequent stone jail, at the northwest corner of the square. The next jail was built in 1845, and, in turn, was replaced with the present brick building, erected in 1882, at a total cost of nearly thirty thousand dollars. The new clerk's office was built in 1872, at a cost of about \$11,000, and the surrogate's office in 1886, at an expense of \$8,707.75. In July, 1859, an act of the legislature

## LEGAL AND JUDICIAL

divided Steuben county into two jury districts, the northern and the southern, and a court house for the southern district was erected in Corning during the years 1853 and 1854.

Immediately after the organization of the county, the county bar came into existence. McMaster, the historian of the early period of the county, said "a few straggling birds of legal feathers had alighted on the Pine Plains in the preceding year (1795) but were not recognized as constituting a distinct and independent confederacy." The first arrival is said to have been George D. Cooper, of Rhinebeck-on-the-Hudson, who was appointed first clerk of the county. Following him came David Jones, Peter Masterton, James Morris, Stephen Ross, David Powell, William Ver Planck and William Howe Cuyler.

In the early days the assembling of court in Bath was often attended with perplexing difficulties, for the people of the village did not find it easy to provide food for the large number of persons attending the court. Flour was brought from Northumberland, or on pack horses from Tioga Point and other distant places. Pork came from Philadelphia.

"The Canisteo boy brought over his bag of wheat, threw it down at the door of the agency house, and was paid five dollars the bushel. He drove his bullock across the hills, slaughtered it at the edge of the village and sold everything from hoof to horn for a shilling a pound. He led over a pack horse laden with grain, paid all expenses, treated, and took home eighteen dollars. One old farmer remembers paying two dollars and a half for a hog's head 'and it was half hair at that.' 'Bath was just like San Francisco,' says an old settler on the comfortable farms of Pleasant Valley. 'Straw was a shilling a bunch and everything else in proportion. Money was plenty, but they almost starved out. They once adjourned court because there was nothing to eat. If it had not been for the Valley, the Pine Plains would have been depopulated. After court had been in session two or three days, you would see a black boy come down here on a horse, with a big basket foraging. He would go around to all the farms to get bread, meat and eggs, or anything that would stay life. Bath was the hungriest place in creation.'

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"The citizens of the county made court week a kind of gathering time, and the larders of Bath were sometimes speedily exhausted. The prudent Juryman, before setting out from home, slung over his shoulder a bag containing a piece of cold pork, and a huge loaf of bread; for no one knew to what extremities the ministers of justice might be reduced."

Of the leading legal minds of New York State, Steuben has furnished a generous proportion, and many of them have attained more than ordinary distinction. Particular note should be made of Judge Thomas A. Johnson, of the Supreme Court, and of the court of appeals, who, although a native of Massachusetts, early located near Corning and afterwards in Knoxville, where he died in 1872. Then there was Judge David Rumsey, of the Supreme Court, who was born in Washington county, New York, and lived in Bath, Steuben county, during the greater part of his lifetime. William Rumsey, of Bath, and George B. Bradley, of Corning, were other incumbents of the bench of the Supreme Court who were residents of Steuben. Other prominent members of the early judiciary and bar of Steuben were: George D. Cooper, Vincent Matthews, Samuel S. Haight, Daniel Cruger, William B. Rochester, Edward Howell, Schuyler Strong, David McMaster, Samuel H. Hammond, Guy H. McMaster, George T. Spencer, and William B. Ruggles.

First judges of the county court from 1796 to 1846, with the years of their appointment, were: Charles Williamson, 1796; William Kersey, 1803; James Faulkner, 1804; Samuel Baker, 1813; Thomas McBurney, 1816; James Norton, 1823; George E. Edwards, 1826; Ziba A. Leland, 1838; Jacob Larrowe, 1843 and William M. Hawley, 1846.

County judges after 1847, with the years of their election, have been: David McMaster, 1847; Jacob Larrowe, 1851; Da-

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1. "History of the Settlement of Steuben County, N. Y.," by Guy H. McMaster, p. 102.

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vid McMaster, 1855; Washington Barnes, 1859; Guy H. McMaster, 1867; George T. Spencer, 1871; Guy H. McMaster, 1877; Harlo Hakes, 1893, and Frank H. Robinson, 1894; William W. Clark, 1902, and Almon W. Burrell, 1906.

Surrogates of the county have been: Stephen Ross, 1796; Henry A. Townsend, 1800; George McClure, 1805; John Metcalf, 1813; James Read, 1815; Samuel Baker, 1817; William Read, 1821; James Brundage, 1823; William Woods, 1827; Robert Campbell, Jr., 1835; David Rumsey, Jr., 1840; Ansel J. McCall, 1844; Guy H. McMaster, 1883; John F. Little, 1887; M. Rumsey Miller, 1888, and Monroe Wheeler, 1901.

District attorneys have been: William Stewart, 1802; Daniel W. Lewis, 1810; William Stewart, 1811; Vincent Matthews, 1813; Daniel Cruger, 1815; Daniel Cruger, 1818; John Cook, 1821; Henry Welles, 1824; Edward Howell, 1829; B. W. Franklin, 1834; Edward Howell, 1836; Lazarus H. Read, 1840; Andrew G. Chatfield, 1845; Morris Brown, 1846; Alfred P. Ferris, 1847; Robert L. Brundage, 1850; Joseph Herron, 1853; John Maynard, 1856; Christopher John McDowell, 1859; Harlo Hakes, 1862; John H. Butler, 1865 and 1868; Alphonso H. Burrell, 1871; Ellsworth D. Mills, 1874 and 1877; Daniel L. Benton, 1880; Irving W. Near, 1883; Frank H. Robinson, 1886 and 1889; William W. Clark, 1892; Almon W. Burrell, 1902, and Edwin C. Smith, 1906.

### DELAWARE COUNTY

In March, 1797, the legislature passed an act organizing Delaware county from portions of the counties of Ulster and Otsego. The first jury in the county was impaneled October 3, 1797, at the house of Gideon Frisbee, at the mouth of Elk Creek, and this was generally the place of holding court and

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transacting county business until the completion of the court house in the summer of 1799. According to some traditions the court was also occasionally held at the residence of Alexander Leal.

The judges of the first court were Patrick Lang, William Horton, and Gabriel North, and assistant justices were Isaac Hardenburgh and Alexander Leal. Attorneys admitted to practice in the court were Conrad E. Elmendorf, Philip Gebhard, Anthony Marvine, David Phelps, Erastus Root and Cornelius E. Yates. The device of the first court seal was a stream of water issuing from a mountain, and the motto "Seal of the Court of Common Pleas of the County of Delaware." About the beginning of the nineteenth century the present county seal was adopted; a sheaf of wheat flanked by a plow and a rake, and surrounded by the words "Delaware County Seal."

A beginning was made in the construction of the first county building in Delhi in 1797, when George Fisher and Levi Baxter donated land for that purpose. Alexander Leal, Sluman Wattles and Elias Butler were appointed commissioners to supervise the work. The building was begun in 1798, and when it was completed it cost over \$2,000. There seems to have been little use for either the court house or the jail, for it has been written that "the jail was unused for fourteen years, and so little was the court house needed that in 1812 the legislature authorized it to be used as a tavern."

In April, 1820, the building took fire and was destroyed, most of the records of the county preceding that time being burned. A State loan to the amount of \$8,000 was secured, and work upon a new court house and jail was immediately begun. Pending the construction of these new buildings, the county prisoners were confined in the jail in Greene county and courts were held in the house of Jesse C. Gilbert.

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For nearly half a century the old court house served all the necessities of the county, but in the course of time it became inadequate, and in 1866 measures were taken to replace it with a more modern building. At this time the town of Walton offered to build a new court house if the board of supervisors would locate it in that village. Delhi, however, was not willing to yield its position as county seat, and was able to retain the honor by offering to pay \$10,000 toward a new court house which should be built on the site of the old one. Ground for the new structure was broken about the middle of March, 1869, and the old building was sold for a town and fireman's hall. In January, 1871, the new edifice was dedicated. It cost something over \$20,000. The commissioners who had charge of this work were G. S. Mead, Charles Hathaway and William V. Dowie.

The Delaware county bar has furnished to the State many officials who have been distinguished in political and professional life. Prominent among them have been: Erastus Root, Joel T. Headley, William Murray, Jr., Amasa J. Parker, Selah R. Hobbie, and Isaac H. Maynard.

Erastus Root was a native of Connecticut, where he was born in 1773, and he was graduated from Dartmouth College in 1793. When Delaware county was organized in 1797, he took up his residence in Delhi, where he continued to dwell until the time of his death. Few of his time were more active or more useful in public affairs. He was a member of the assembly from Delaware county eleven different years between 1799 and 1830, and was three times speaker of the assembly. He was twice elected as state senator, 1821-1816 and 1840-1844; was lieutenant governor 1823-1824; member of the constitutional convention of 1821; a member of the commission to revise the statute laws in 1824; four times a representative to congress.



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He was also lieutenant colonel, brigadier general and major general of the state militia, a master in chancery, and postmaster of the village of Delhi during twenty years.

Judge Amasa J. Parker was a native of Sharon, Connecticut, where he was born in 1807, and he was graduated from Union College in 1825. He removed to Delhi in 1827, and there began the study of law. Being admitted to practice he was engaged extensively in professional pursuits for more than fifteen years. In 1834 began his public career. In that year he was elected a member of the assembly, and in the following year was chosen regent of the University. In 1837 he was elected a member of congress; in 1844 he was appointed judge of the supreme court, and in 1846, under the new constitution, he was elected a justice of that court for the full term. At that time he removed to Albany and thenceforth made his home in that city. After the expiration of his term of office he devoted himself to professional work, most of his time being occupied with the argument of cases before the court of appeals.

Judge Isaac H. Maynard was born in Essex county, in 1838, and was graduated from Amherst College in 1862. Studying law and establishing himself in the village of Stamford, he was a supervisor of the county in 1869 and 1870, and was elected a judge. In 1875 he was elected a member of the assembly. In 1884 he was appointed first deputy attorney general of the State, which position he resigned to become second comptroller of the United States Treasury under President Cleveland. In 1887 he was appointed assistant secretary of the United States treasury. In 1892 he was appointed one of the judges of the court of appeals, but was defeated in the subsequent campaign for election to the full term in that court. He died in Albany in 1896.

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County judges since 1797, with the years of their election have been: Joshua H. Brett, 1797; Ebenezer Foote, 1810; Isaac Ogden, 1816; Ebenezer Foote, 1828; Jabez Bostwick, 1830; Charles Hathaway, 1840; Nelson K. Wheeler, 1845; Edwin More, 1847; William Gleason, 1851; Jesse Palmer, 1855; William Gleason, 1859; William Murray, 1863; Edwin D. Wagner, 1867; Isaac H. Maynard, 1877; Daniel T. Arbuckle, 1883; James R. Baumes, 1889; Albert H. Sewell, 1889 and 1895; and John P. Grant.

Surrogates from 1797 to 1846, with the years of their election, were: Anthony Marvine, 1797; John R. Gregory, 1811; Amos Douglass, 1813; Robert North, 1815; Amasa J. Parker, 1832; Charles Hathaway, 1841; Nelson K. Wheeler, 1844.

District attorneys since 1818, with the dates of their election, have been: William H. Elting, 1818; John B. Spencer, 1821; Selah R. Hobbie, 1823; Noadiah Johnson, 1827; Amasa J. Parker, 1833; Samuel Gordon, 1836; Nelson K. Wheeler, 1839; James A. Hughston, 1842; Truman H. Wheeler, 1845; Amasa J. Ten Broeck, 1847; William Murray, 1850; Robert Parker, 1853; John Grant, 1856; George W. Clark, 1859; Reuben H. Root, 1862; Ferris Jacobs, Jr., 1865; Harvey F. Davidson, 1868; Ferris Jacobs, Jr., 1871; Daniel T. Arbuckle, 1874; Abram C. Crosby, 1877; Jonas M. Preston, 1880; Samuel H. Fancher, 1883; John P. Grant, 1889; William F. White, 1892; George A. Fisher, 1898; and Alexander Neish, 1904.

### ROCKLAND COUNTY

While the territorial area of Rockland county is small, and by comparison with other counties the number of its lawyers is also small, yet its record for the character, ability and suc-

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cess of the local bar will compare favorably with that of most of the counties of the State.

Indeed, Rockland county may justly boast of its eminent lawyers and of many of its able judges, whose names have become prominent, not only in the practice of law, but in various other departments of public life. While in its earlier history its population was small, and the modest and easily satisfied wants of its inhabitants tended to the peaceful settlement of controversies, and the luxury of litigation in the courts was comparatively unknown, yet for half a century or more its general development and growth, its increase of population and multiplication of business interests have been rapid and marked, and the adjustment of property rights, and the protection and enforcement of personal and contract obligations, have created the necessity for that high order of legal talent which reflects honor upon the county, and which has presented prominently before the people not only of the county but of the State and nation, the names of men whom any generation and jurisdiction might delight to honor.

The legal battles which have been waged in Rockland county have, for the most part, been fought in the old court house at New City. The establishment of the county seat at New City was due to causes which, to the reflective and discerning mind, will become at once apparent. First, at the time of its selection there were no railroads, and, as all persons going there were compelled to drive, it was as easily accessible from all parts of the county as any other place that might have been chosen. Second, and principally, because the land was conveyed in trust for public purposes, and was in the nature of a gift to the county, for we find the interesting record in the County Clerk's office that one —— Gerow, in the exercise of a commendable public

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spirit, by deed created the trust of which the county has ever since enjoyed the benefit.

The court house, which for many years amply subserved the purpose for which it was intended, was erected in 1827-28, and for the same period the offices of the county clerk and surrogate were contained in a small building on the same property and to the south of the court house.

In 1872 the court house building was greatly enlarged and improved, and suitable accommodations for the county records, the surrogates court, and the records pertaining to estates, together with rooms for the judges, district attorney, sheriff and board of supervisors, were included. But so great has been the increase of public business since the said improvements were made that it was necessary to again enlarge it in 1907, and now it is an adequate and modern court house.

In the earlier history, the court having the jurisdiction now vested in the county court was known as the court of common pleas. The first court of common pleas was held in the county after its separation from Orange county, which was in the year 1798, and convened at New City on the first Tuesday of May, 1798. Of this court, John Suffern was first judge; Benjamin Coe and James Perry were known as judges, and Abraham Onderdonk as assistant judge.

Among the attorneys who appear upon the court records within that period were Samuel Smith, Peter Ogilvie, John Oppie, Thomas Smith, Robert Campbell, James Scott Smith, Jonathan Pearsie, Jr., Charles Thompson, William A. DePeyster and Robert Morris Ogden.

The office of first judge was held by John Suffern until 1806. It is evident that the distinguished honor conferred upon Judge Suffern by this appointment was well merited, and the

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characteristic qualities which obtained for him the positions of responsibility and influence which he, from time to time, held, were transmitted to an honored and influential line of descendants. Judge Suffern was appointed by Governor John Hay. In 1806, James Perry was appointed first judge. His associates were Peter D. W. Smith, Richard Blauvelt, Andrew Suffern, John T. Gurnee and Jeremiah W. Pierson. In 1816, Samuel Goetchius became first judge, and continued in the office until 1820. In 1820, Edward Suffern, son of John Suffern, was appointed first judge and remained in the office until 1847. At the time of his appointment he held the office of district attorney, to which he was appointed in the year 1816.

Prior to the year 1847, the offices of judge and surrogate were separate, and the duties of the latter office were by no means numerous. Simplicity itself marked the methods of those days, but affairs were administered with dignity, and with much intelligence and unquestioned integrity by those holding these positions of trust and responsibility. Litigation over the estates of the dead were practically unknown. The business of the surrogate's court rapidly increased until it has become a great volume, involving and presenting every phase of controversy, legal and equitable, of which such courts may have cognizance.

The first surrogate of Rockland county was Peter Tallman, who had represented Orange county in the state legislature in the years 1787 and 1788, and was a member of the constitutional convention in 1801. Mr. Tallman held the office of surrogate until 1807, and again from 1808 to 1810. The office was held by Tunis Smith in 1807, and by Richard Blauvelt from 1811 to 1820. Mr. Blauvelt was a presidential elector in 1824. Bernard O'Brien held the office for one year in 1820-21, and was succeeded by James Stevens, by whom the office was filled until

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1828, when he was elected county clerk. John Van Houten was the incumbent from 1828 to 1837, and was succeeded by John J. Wood. In 1841 George Benson became surrogate, and served four years. He was succeeded by Horatio G. Prall, who served until 1847, from which time the offices of county judge and surrogate have been held by the same person.

Horatio G. Prall was one of the most honored members of the Rockland county bar, and the memory of his private and official life, more especially of his later years, remains with many still living. As a lawyer of ability and integrity he was the peer of any of his eminent contemporaries in the profession. He filled the office of district attorney from 1847 to 1853, and always maintained a large and lucrative practice.

In 1847 William F. Frazer was elected county judge and surrogate, which offices he held for two terms of four years each. Judge Frazer had previously held the office of district attorney, to which he had been appointed in 1833, and in which he continued at the time of his appointment to the judgeship.

Edward Pye was elected county judge in 1855 and served one term. Judge Pye was a man of fair ability as a lawyer, and as judge performed all of the duties of the office most acceptably. During the civil war he entered the army and became colonel of the 95th Regiment New York Volunteers. He died June 12th, 1864, of wounds received in the battle of Cold Harbor.

Judge Pye was succeeded in the office by Andrew E. Suffern, of Haverstraw, who continued in the office until his death, on the 16th day of March, 1881. Judge Suffern will probably always stand forth as one of the most brilliant personalities Rockland county has ever produced. He was graduated from the University of New York, studied law, and resided and prac-

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ticed in Haverstraw during the remainder of his life. In 1853 he became district attorney, which position he held at the time he was elected county judge. He was for several years chief of the commission of appeals of the Grand Lodge of Free and Accepted Masons in this State, and was an authority on Masonic law and procedure.

Seth B. Cole, of Nyack, New York, was appointed to fill the vacancy caused by Judge Suffern's death, and held the office until the following January. Judge Cole came to Rockland county in 1867, and in 1872 he was elected district attorney, which office he held until 1876. He was succeeded in the judgeship by George W. Weiant.

George W. Weiant was born in Stony Point, New York, in the year 1844. He began the practice of law in Haverstraw in the year 1870, where he continued to reside and practice until his death in 1895. He was one of the strongest characters in many respects that ever entered upon a professional and public career in this county. He graduated from the State Normal School at Albany with honors. He was well and intimately known by almost the entire adult population of two towns at the very beginning of his professional career. As a judge he was universally commended. While off the bench he was most affable and kind; when engaged in the discharge of the judicial prerogative, he was wholly unapproachable, apparently forgetful of the friendly and social relations in which at other times he delighted, possessing the extraordinary faculty of shutting out of thought and consideration everything extraneous to the matter in hand, remembering only that it was his duty to judge between friend and foe alike, or rather to forget for the time being who was friend and who was foe. His death was universally lamented. His widow and two sons still reside at the homestead where he died.

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Judge Weiant was followed upon the bench by Arthur S. Tompkins. In every commonwealth there have arisen men whose experiences have been phenomenal, men to whom success has taken kindly at the very beginning. And this not by reason of the favor of fickle fortune which has pursued the man, but because the man from the outset has asserted his right and his determination to succeed, and has then simply proceeded in the use of the appointed means to achieve the desired success. Such a man is Arthur S. Tompkins. Judge Tompkins was born at Middleburg, Schoharie county, New York, in the year 1865. He was educated in the public schools of Clarkstown and Nyack, New York. He studied law in the offices of Abram A. Demarest and Seth B. Cole, of Nyack, and in the office of Henry Griffin, of Tarrytown, New York. On May 18th, 1889, he married Miss Jeanie C. Logan, of Tarrytown, New York. In 1886 he was admitted to the bar, and practiced in Nyack. In 1887 he was elected police justice of the village of Nyack. He manifested his aptness for political life, and was elected to the State assembly as a Republican in a Democratic county in 1889. In 1903 he became the Republican candidate for county judge and was elected. In 1898 he was elected representative in congress from the Seventeenth congressional district, composed of the counties of Rockland, Orange and Sullivan, and in December of that year resigned from the judgeship. In 1900 he was returned to congress and served his full term, and then resumed the practice of law in Rockland and adjoining counties. As a trial lawyer Judge Tompkins had no superior and very few equals in the district in which he practiced. In the examination of witnesses he was shrewd, alert and incisive. In argument to the jury he was a marvel of freshness, simplicity and power. He always knew his juror and talked to him. His arguments were replete



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with illustrations which found their duplicate in the experiences of the individual juror. History, poetry and anecdote were brought into requisition by this master of the legal art, and all were blended in a production of argument, appeal, pathos, denunciation and eloquence which were sure to win a good case, and save a poor one from total destruction. In 1906, when the old Second judicial district was divided and made two separate districts, the committee appointed by the State Bar Association for the purpose of investigating and recommending suitable candidates for the office of Supreme Court judge in the new Ninth judicial district, presented the name of Judge Tompkins for that office. The bar of Rockland county, proud of the lustre of his brilliant record and of the prominence which was his because he earned it, and realizing his sterling worth, with one accord supported him for that high position. He was elected by a handsome majority, and at the present writing he has served three years upon the bench, with favorable comment everywhere on his ability and fairness in that position. He is clean, dignified, kind and just, and with all his rare and brilliant experience, Judge Tompkins is still a young man, and with the continuance of health and strength is surely destined to accomplish vastly more than he has already achieved in the successes of the past and present.

Upon the resignation of Judge Tompkins from the county judgeship in 1898, he was succeeded by Alonzo Wheeler, who was appointed by Governor Black to the vacancy thus created, and who filled the office until January 1st, 1900. In 1899, Andrew X. Fallon, son of Andrew Fallon of Piermont, New York, was elected to the judgeship, of which he was the incumbent until his death in May, 1908.

Judge Fallon was born at Piermont. His education was ob-

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tained in the local schools (public and private) and in the George Payne Quackenbush School of New York, where he remained until 1873. He was admitted to the bar and formed a partnership with his father in the practice of law at Piermont in 1879. From 1887 to 1900, with the exception of the years 1892-3, he was a member of the board of supervisors of the county of Rockland. Judge Fallon has always stood for what was best, purest and most honorable in private, professional and public life. His is one of the few lives against which the venomous tongue of scandal has never directed its shafts. Inheriting the sterling virtues of his honored father, he has always possessed the confidence of men without seeking it, by an every day life which was in itself but the assertion of the principles which he believed in, and which have made him a man of incomparable strength, not only in the esteem of his fellows, but in the arena of politics through the medium of which he was elevated to the county judgeship.

Upon Judge Fallon's death the present district attorney, Thomas F. Gagan, conducted the office of judge, and in 1908 the Democratic candidate, William McCauley, was elected to the office, and is now the present incumbent. Judge McCauley was a student at the Normal School at Millersville, Pennsylvania, and later entered the Wesleyan University at Middletown, Connecticut, where he remained until ill health compelled him to abandon his collegiate course. After leaving college he taught in the public schools of the county until 1879, when he entered the office of Judge Weiant, at Haverstraw, remaining with him until he was admitted to the bar in 1882, and afterwards continuing his practice in the same office for six years, since which time he has been alone. For some years Mr. McCauley filled the office of corporation counsel of the village where he now re-

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sides, and in 1890 was elected on the Democratic ticket to the office of district attorney of Rockland county and served from 1891 to 1894. His record in that office is a flattering one. During Judge McCauley's one year on the bench he has made a splendid record. He is dignified and courteous; he is upright and absolutely honest, and a thoroughly Christian gentleman. As a trial lawyer Judge McCauley is undoubtedly the most reliable, thorough and capable lawyer now practicing in this county, and is an exponent of the best and ennobling characteristics in social, professional and official life. His experience, ability and character warrant for him a position on the bench of a higher court.

The first court house at New City was a small building about seventy-five feet square, situated on the site of the present court house. In it were all the county offices and the jail, consisting of three cells and a dungeon. Since that time additions have been put on until at the present time the court house is a large roomy building with all the county offices on the south end, and the jail on the north end, which is an adequate, modern and well kept jail.

The court of oyer and terminer and the court of sessions were abandoned in 1846 by statute. These were criminal courts.

There has been only one public execution in Rockland county, and that was in the early eighties. There have been a large number of murder trials, but in most cases of conviction, by the aid of skillful lawyers, the prisoners have been able to escape the hangman's noose, by a commutation of sentence or a pardon.

The most prominent criminal lawyer in this county was Cornelius P. Hoffman, of Nyack. His knowledge of the law was varied and extensive, and in matters of practice he was an

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adept. He was the defending lawyer in nearly every criminal case in this county, during his long years of practice, and made an excellent record.

### CHENANGO COUNTY

Previous to the erection of Chenango, in 1798, the territory afterwards comprised in the county belonged to Herkimer, and its history is recorded in that county. Hamilton and Oxford were each constituted county seats and continued as such until 1806.

In 1809, by virtue of the act of the legislature of March 6, 1807, Norwich became the county seat of Chenango. The first county officers of Chenango were Isaac Foote, first judge; Joab Enos and Joshua Leland, judges; Oliver Norton and Elisha Payne, assistant justices; Uri Tracy, sheriff; Sidney S. Breese, clerk; John L. Mersereau, surrogate. The first terms of the court of common pleas and the court of general sessions were held in the log school house, near the house of Elisha Payne, in the town of Hamilton, in June, 1798. Thomas R. Gold, Joseph Kirkland, Nathan Williams, Stephen O. Runyon, Nathaniel Keene, Arthur Breese, Peter E. Garnsey and Medad Curtis were admitted to practice as attorneys and councillors. The second court terms were held in Oxford, in October of the same year, and subsequently court was held alternately in Oxford and in Hamilton three times a year.

In March, 1807, supervisors were authorized by the legislature to select a site for the court house and jail in Norwich village. The site for the buildings, consisting of about one and one-half acres, was donated to the county by Peter B. Garnsey. It comprised the plot on which the court house of modern times

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has stood, and that part of the village green or common lying west of the main street. The court house was ready for occupancy early in the spring of 1809, a wooden structure two stories high, and substantially built. It cost \$6,500.

Increased court business soon outgrew the accommodations of this court house, and the necessity for the erection of a new building stimulated a sharp rivalry between the villages of Norwich and Oxford to be declared the county seat. The contention was carried to the legislature, and the final decision of that body was in an act passed in March, 1837, authorizing the erection of a new court house in Norwich. William Randall, of Norwich, and William Knollton, of Smithfield, were appointed to superintend the construction of the building, and subsequently David Griffin and Arthur Purdy of Norwich, were substituted in the place of their predecessors. The building thus arranged for was erected at a cost of \$16,000. It was a plain but slightly and imposing structure, built in the Grecian style of architecture, with a portico supported upon four Corinthian columns. The material for the structure was stone obtained from the quarry a short distance from Oxford village.

The first court held in Norwich was the court of common pleas, which met in the village court house in June, 1809. The first circuit court was held in the court house in June, 1810, and was presided over by Supreme Court Justice Smith Thompson.

The jail limits of Chenango were established at Sherborne's Four Corners in July, 1796; in 1802 they were transferred to Norwich. The early jail limits were restricted to three acres, but in 1819 they were enlarged to include the entire site of the corporation of Norwich village. The old jail was built within the court house, as was also the jailor's residence. It was very insecure, and prisoners had little difficulty in affecting their

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escape. In 1830 the legislature authorized the construction of a stone building for jail purposes, and the stone jail contiguous to and north of the court house was soon after erected. Chenango furnished the first surrogate of Tioga county in the person of John L. Mersereau, who was appointed in February, 1791, and held the office until the formation of Chenango, when in March, 1798, he was appointed to the same office for the latter county. His successors until the office was abolished by the constitution of 1846 were: James Birdsall, 1811; David Buttolph, 1813; John Tracy, 1815; Nathan Chamberlain, 1819; John Randall, 1820; John Tracy, 1821; Smith M. Purdy, 1833; Samuel McKoon, 1837, and Roswell Judson, 1843.

First judges of Chenango were Isaac Foote, appointed 1800; Joel Thompson, 1807; Obadiah German, 1814; James Clapp, 1819; Uri Tracy, 1819; John Tracy, 1823; Smith M. Purdy, 1833; Levi Bigelow, 1838; Roswell Judson, 1843.

The county judges have been: Smith M. Purdy, 1847; Roswell Judson, 1851; Dwight H. Clark, 1855; Horace G. Prindle, 1863; William F. Jenks, 1877 and 1883; Albert F. Gladding, 1889, 1895 and 1901; John H. Hicks, 1906, and Hubert C. Stratton, 1907.

Thomas R. Gold, of Oneida, was the first and only assistant attorney general for Chenango county. He was appointed February 26, 1797, while Chenango was yet a part of Herkimer county. He represented the Seventh district, which then embraced Herkimer and Otsego counties. He was succeeded by Nathan Williams, of Oneida, Nathaniel King, Daniel Kellogg, and Joseph L. Richardson.

District attorneys subsequent to 1818 were: Simon G. Throop, appointed 1818; Lot Clark, 1882; John C. Clark, 1823; Robert Monell, 1827; Lot Clark, 1828; John Clapp, 1836;

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George M. Smith, 1841; Robert O. Reynolds, 1843; George M. Smith; James M. Banks, 1847; Dwight H. Clark, 1850; Isaac S. Newton, 1853; Elizur H. Prindle, 1859; Solomon Bundy, 1862; Calvin L. Tefft, 1865; Robert A. Stanton, 1868; Calvin L. Tefft, 1871; David H. Knapp, 1874; John W. Church, 1877; George M. Tillson, 1880; George A. Haven, 1883; George P. Pudney, 1886 and 1889; Wordsworth B. Matterson, 1892, 1895 and 1898; Hubert L. Brown, 1901 and 1904; James P. Hill, 1907.

The office of special judge was authorized by the constitution of 1846, and its incumbent was required to perform the duties of county judge, in case of the inability of the latter to act, or of vacancy, and to exercise such other powers in the special cases as were required by law. The office was created in Chenango county on application of the board of supervisors, by an act passed July 11, 1851, which made the term four years. It has been filled by the following: William N. Mason, 1855; Hamilton Phelps, 1860; Alfred Nichols, 1863; Ransom McDonald, 1864; William H. Hyde, 1864; Oscar H. Curtis, 1868; Charles B. Summer, 1872; Stephen Holden, 1876; Henry H. Harrington, 1880, 1884, 1888, 1892, 1896 and 1900; Julien C. Scott, 1904; Archie D. Gibbs, 1908; John H. Hicks, 1908.

### ONEIDA COUNTY

During the early history of the State of New York, no locality in the State contributed more, according to its population, than did Oneida county in furnishing able and conscientious men for high official positions. These men were among the foremost in framing the constitutions and statutes of the State, and, through the courts, in laying down those fundamental rules of law that have since been a guide to after generations.

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The territory now called Oneida county was originally a part of Albany county, afterwards of Tryon, later of Montgomery, and still later of Herkimer. The county of Oneida was erected by an act passed March 15, 1798. By this act, provision was made for holding courts in the county and for the erection of a court house and jail. By the same act, Oneida, Montgomery, Herkimer and part of Chenango county were constituted a congressional district.

In 1802 St. Lawrence county was formed from Oneida. March 28, 1905, the counties of Jefferson and Lewis were taken off from Oneida, and on April 7, 1817, the town of Utica was formed from Whitestown. There were other acts passed by the legislature in regard to the boundaries of the county or erecting new towns; the last of these was passed May 12, 1846. By this act the town of Ava was erected from Boonville, and from that time no changes have been made in the boundaries of the county nor have any new towns been created within its bounds.

The first court of record held within what is now Oneida county convened at the "Meeting House" in the town of Whites-town, on the third Tuesday in January, 1794. Henry Staring was judge, and Jedediah Sanger and Amos Westmore, justices. The meeting house referred to was probably the Presbyterian church at New Hartford village, for this was the only meeting house then existing within the county, and the village of New Hartford was then within the town of Whitestown. This building is still standing, but for many years has been used as a barn.

Soon after the formation of the county in 1798, Jedediah Sanger, Hugh White, James Dean, David Ostrom and George Huntington were commissioned judges, and Amos Wetmore, Thomas Casety, Garret Boon, Adrian F. Van der Kemp, Elizur



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Mosley, Henry McNeil, Peter Colt, and Needham Maynard, assistant justices.

John Lansing, Jr., chief justice, held the first circuit court in Oneida county, at Fort Stanwix, (Rome) on the second Tuesday in September, 1798.

James Kent, afterwards author of "*Kent's Commentaries*", a justice of the supreme court, held the first court of oyer and terminer at Rome, June 5th, 1798.

The first court of common pleas was held by Judges Sanger, Huntington and Ostram. At this term attorneys who had been admitted to the bar in Herkimer county were admitted to practice in Oneida county courts. They were: Thomas R. Gold, Joseph Kirkland, Arthur Breese, Erastus Clark, Joshua Hathaway, Jacob Griswold, Nathan Williams, Francis A. Bloodgood, Jonas Platt, Rufus Easton and Medad Curtis.

Prior to May, 1820, the courts were usually held at Fort Stanwix, but the jail having been completed at Whitestown, the May term of the court of common pleas was held in the school house near the jail in that village. A court house was afterward built and courts were held there for several years. The court house now stands, and is the town hall of the village of Whitesboro.

From about 1802, sessions of the United States district court have been held in Utica, and the United States circuit court has held stated sessions here since July, 1851.

The supreme court of judiciary held sessions in Utica during its entire existence. A lawyer attending on one of these sessions in 1820 in describing the court mentions the eminent personages who were present. He says: "Chief Justice Spencer presided, with Judges Van Ness, Platt, Yates and Woolworth, as associates. Among the eminent counsel present were Aaron Burr, Thomas J. Ockey, Martin Van Buren and Elisha Williams".

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As Oneida is a half-shire county, courts have been for many years and still are held, alternately, in Utica and Rome. In 1851 a court house was erected on John street, in Utica, and was occupied until 1908.

In the year 1901, a special act of the legislature was passed creating a board of commissioners for the erection of a new court house in Utica. This commission consisted of seven Republicans and seven Democrats, seven commissioners being lawyers and seven business men. Their names were Henry J. Cookinham, W. Stuart Walcott, Edwin H. Risley, Josiah Perry, Van Rensselaer Weaver, Frederick T. Proctor, Alfred H. Munson, Albert R. Kessinger, James P. Olney, Henry W. Bentley, Byron A. Curtis, Leslie W. Kernan, Smith M. Lindsley and George E. Norton. Mr. Walcott declined to serve, and William G. Mayer was elected in his place. Leslie W. Kernan died, and Thomas S. Jones was elected in his place. Henry W. Bentley also died, and Henry B. Belknap was elected in his place.

The board of supervisors, which, by general statute had the power to erect a court house, resisted the commission and refused to issue bonds of the county to furnish money for that purpose, as provided by the special act. The court of appeals sustained the commission in a proceeding to compel the supervisors to issue the bonds; and, after a bitter legal fight, the court house was built and completed in 1909. The building is located between Mary, Charlotte and Elizabeth streets, and cost nearly a million dollars. It is one of the most convenient and beautiful court houses in the entire country.

The first session of the supreme court was opened in this building by Justice Irving R. Devendorf, on the 21st day of September, 1908, before the building was entirely completed.

To give an account of the many interesting and important

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trials both civil and criminal which have occurred within the county would extend this paper beyond reasonable bounds. A few of these trials would furnish material for a book, and it is difficult to select any of the civil cases that are of such paramount importance above others as to warrant even a short account of them. There have been, however, criminal cases of such a character as to be of interest to the public.

The first capital case tried in Oneida county was that of Sylvia Wood. She was indicted for the murder of her husband, was convicted, and sentenced to be hung, but committed suicide the night before the day set for the execution.

The first execution for murder in the county was that of John Tuhi, an Indian, who was convicted of the murder of his cousin, Joseph Tuhi. This execution occurred July 25, 1817.

In 1824 the court of oyer and terminer was held in the academy at Utica, and the first important criminal trial which took place was that of a boy, Irad Morse. He was indicted for murder, having shot his companion while hunting. Samuel R. Betts, circuit judge, presided, and Samuel Beardsley was district attorney. The boy was convicted, but the sentence was commuted to imprisonment for life.

One of the most, if not the most, important criminal trial which ever occurred in the United States, was that of Alexander McLeod. He was indicted for the murder of Amos Durfree, who was killed by a pistol shot on December 30, 1837, the night of the burning of the steamer "Caroline" and sending her over Niagara Falls. The trial of McLeod took place at Utica, in October, 1841. Judge Philo Gridley presided, and Willis Hall, attorney general of the State, assisted John L. Wood, district attorney of Erie county, and Timothy Jenkins, district attorney of Oneida county, in prosecuting the criminal. The

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prisoner was defended by Gardner & Bradley, with Joshua A. Spencer as counsel. McLeod was a British subject, and after his indictment, the British government demanded his release. Our government, Daniel Webster being secretary of state, was favorable to granting the request, but the governor of New York refused to deliver up the prisoner.

A serious international controversy arose, and war was threatened. The federal government, in reality, took charge of the defense of McLeod backed by Great Britain, that government having appropriated twenty thousand pounds for the defense of McLeod. On motion of the defendant's counsel the place of trial was changed from Erie to Oneida county. The excitement was intense in this country and in England, for it was believed that if the prisoner was convicted and the State of New York undertook to execute the prisoner, war would be declared by England. Mr. Spencer, then the foremost advocate in the entire country, tried the case with a matchless ability and summed it up with great power. The original manuscript of his minutes taken upon the trial are now in the possession of the Oneida Historical Society at Utica. Judge Gridley, in his charge, called attention to the great importance of the case, and told the jury that if, in their judgment, the evidence warranted a verdict of guilty, to convict the prisoner, though it should "light up the land with the flame of war". McLeod was acquitted, and further international complications in regard to the subject were averted. The writer was informed by Richard H. Morehouse, who, at the time, was a clerk in Mr. Spencer's office, that some months after the trial the British government sent him ten thousand dollars which, at the time, was considered a very large counsel fee.

In 1850 a series of fires occurred in Utica which were be-

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lived to be incendiary. At this time intense rivalry existed between the voluntary fire companies, and each company, in order to demonstrate its superiority, was anxious that there should be frequent fires, and they always occurred when desired. It was generally believed throughout the city that someone connected with the fire department was instrumental in bringing about the desired result. For a long time no discovery could be made of the perpetrator of the offences. At length the First Presbyterian Church, at that time one of the finest churches in the State, was burned. This so aroused the people that an extraordinary effort was made and the culprits were finally apprehended. The principal offender was one Conkling, who was believed to be a tool of those higher up in the social scale, and who, after the arrest, fled the country. Conkling was tried, convicted, and hung, while another culprit was sentenced to State's prison for life. One of the young men who had unceremoniously left town on the apprehending of the criminals lived to blot out the record of his early wild life, and to enshrine his name high upon the roll of honor in the great conflict of the civil war,—Major General Daniel Butterfield.

Passing over the numerous civil and criminal cases which have been had in the county in years gone by, and coming down to the present time, reference is made to a case of unusual character. Early one morning in the fall of 1909 two little children were found in a secluded spot in Utica, murdered, and a third one seriously wounded. The living child, a girl of about six years of age, had been shot and had lain on the ground all night. She could give very little information in regard to the crime. For sometime afterward no clue could be obtained concerning the perpetrator of the terrible murder. After a few days, however, little by little, the authorities secured bits of evidence; and,

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putting them together, were convinced that an Italian named Rizzo was the criminal. He was arrested, and, although it was difficult to establish any motive for the crime, he was tried, convicted and electrocuted.

The story of the county, so far as the trial of cases is concerned, both civil and criminal, is like that of any other large county in the State. To record the contests of this character for life, liberty and property, would be the work of a lifetime.

The county, however, is rich in material for biographical sketches, and the most difficult task in preparing them is to distinguish between the many worthy men who have honored the county by their valuable services. In selecting the following subjects for life sketches, it is not intended to infer that there are no others who are equally worthy, but as a line must be drawn, it has been done arbitrarily, and the only excuse is that life sketches of all the prominent lawyers who have lived in the county would extend this paper beyond the limits prescribed for the work proposed. The following sketches are given of those who served their day and generation and have gone on, as we hope, to a rich reward.

William J. Bacon was born at Worcester, Massachusetts, February 18, 1803, and graduated from Hamilton College at the age of nineteen. For a short time afterward he did work upon a Utica daily paper, then studied law with Joseph Kirkland, and was admitted to the bar in 1828. In 1850 he was elected to the assembly and was re-elected the following year. In 1853 he was elected justice of the supreme court, and re-elected in 1862. After the expiration of his second term of office, in 1876 he was elected a representative in congress and served with distinction in that body. He died in Utica, July 3, 1889. He was a man of

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high character, splendid acquirements and his opinions were models of English.

Samuel Beardsley was born at Hoosick, Rensselaer county, February 6th, 1790. His parents removed from there to Otsego county. Mr. Beardsley received a common school education, and for a time was engaged in teaching school. He read law with Joshua Hathaway, of Rome, New York; was admitted to the bar in 1815, and located in Watertown; he removed from there to Rome, and from Rome to Utica. In February, 1821, he was appointed district attorney of Oneida county and served four years. In 1823 he was appointed United States attorney for the Northern District of New York. In 1830 he was elected to congress and was three times re-elected. He was appointed judge of the circuit court in January, 1834, but declined the appointment. In 1836 he was appointed attorney general of the State of New York, and in 1844 he was appointed justice of the supreme court, and was made chief judge in 1847. After retiring from the bench he resumed his practice in Utica, and for a time also had an office in New York City. He was one of the foremost judges of the State. He died in Utica, May 6, 1860.

Green C. Bronson was born in Simsbury, Connecticut, in November, 1789. He had only a common school education, but by great industry and study he became a man of unusual acquirements. For a time he taught school and studied law. He removed to Utica in 1824; was appointed surrogate and served two years. He was elected to the State assembly, and was appointed attorney general, February 27th, 1829. March 5, 1845, he was appointed chief justice of the supreme court. On the adoption of the new constitution he was made one of the judges of the court of appeals. This office he resigned in 1851 and removed to New York City, where he practiced his profession. President

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Pierce appointed him collector of the port in 1853, but he held the office only a short time. He was nominated for governor in 1854, but was defeated. In December, 1859, Judge Bronson was made corporation counsel for the city of New York, and served until 1863. He died at Saratoga, September 3rd, 1863. The opinions of Judge Bronson while on the bench were clear, concise and strong and placed him in the foremost rank among the judges of the court of last resort in the State.

Roscoe Conkling was born October 30th, 1829, in Albany. His father was Judge Alfred Conkling, of the United States district court. He received an academic education, studied law in the office of Spencer & Kernan, of Utica, and was admitted to the bar in 1850. In the same year he was appointed district attorney. In 1858 he married Julia, sister of Governor Seymour, and in that year was elected mayor of Utica. He was elected to congress in 1858 over P. Sheldon Root, Democratic candidate. He was re-elected in 1860, but was defeated in 1862 by Francis Kernan. He defeated Francis Kernan in 1864, and was again re-elected in 1866. In 1867 he was elected to the United States senate, and was re-elected in 1873 and again in 1879. Soon after he was elected to the senate in 1873 he was tendered the position of chief justice of the supreme court of the United States, by President Grant, but declined the position. In 1882 he was appointed a justice of the supreme court by President Arthur, was confirmed by the senate, but declined. In 1880 a controversy arose between President Garfield and Mr. Conkling in regard to the appointment of the collector of the port of New York, and Mr. Conkling, rather than vote for the confirmation of William H. Robertson, resigned, assuming that he could be re-elected by the legislature after Robertson had been confirmed, but the legislature refused to re-elect him. He then opened an office in New

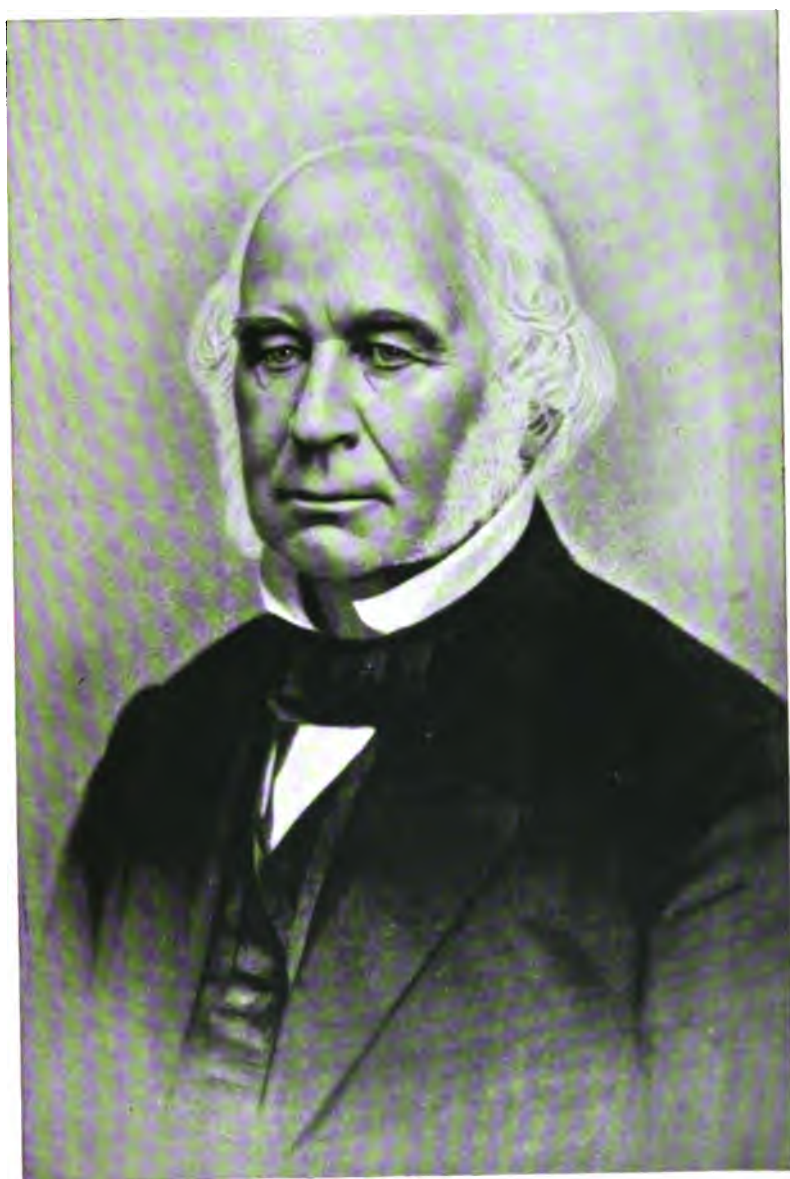


HIRAM DENIO.

(1799-1871).

Jurist and Law Reporter: District Attorney Oneida County, 1825-34; Circuit Judge, 1834-8; Associate Judge Court of Appeals, 1853-1866; published five volumes Reports of Supreme Court and Court for Correction of Errors, 1845-48.





Hiram Denio



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York City and practiced law there up to the time of his death, which occurred in March, 1888. Mr. Conkling was unquestionably one of the greatest trial lawyers that the State ever produced, and as an advocate he had few, if any, equals in the country. Give him the last speech to a jury, and if the case was evenly balanced on the evidence, he would win a verdict. He did not persuade the jury, he overpowered them and made his will theirs. He was six feet two inches tall, well proportioned, a very handsome man, very graceful, had a round full voice, and his manner of presenting a case to a jury was such that it was almost impossible for a jury to see it in any other light than as he presented it to them. His speeches were very ornate, and he used many figures of speech; some of them were good, and others very bad. Take him all and all, as a lawyer and advocate, his equal has rarely been seen in the country.

Alfred C. Coxe was born at Auburn, New York, in 1845. His father, Rev. Hanson Coxe, moved to Utica, while his son was a boy. Young Coxe prepared for college at the Utica Free Academy, entered Hamilton College with the class of 1868, but left during his junior year and commenced studying law with his uncle, United States Senator Roscoe Conkling; was admitted to the bar, and commenced practice as a partner with his uncle. In 1882 he was appointed judge of the district court of the United States for the Northern District of New York, and in 1903 he was promoted to circuit judge for the Second Circuit. On the creation of the United States court of customs he was appointed by President Taft its first presiding judge. At the writing of this paper the appointment has not been confirmed, and Judge Coxe has manifested a disinclination to accept the office.

Hiram Denio was born in Rome, New York, May 21, 1799. His education was obtained at the Fairfield Academy, Herkimer

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county, and he studied law with Judge Hathaway, of Rome, and Storrs & White, of Whitesboro. He commenced practicing in Rome in 1821, and was appointed district attorney in October, 1825, and served for nine years. In 1826 he removed to Utica; in 1834 he was appointed circuit judge, and served for about four years. In June 23, 1853, he was appointed to fill a vacancy in the court of appeals, and twice afterwards was elected and served as one of the judges of that court until 1866. He died in Utica, on the 17th day of October, 1868. Judge Denio was almost an ideal judge, and scarcely anyone who ever sat in our court of last resort served the State better than he. His opinions rank with the foremost that were ever written in any court in the entire country.

Charles A. Doolittle was born in Herkimer, February 19, 1816, prepared for college at Fairfield Academy, and graduated from Amherst in 1836. He commenced his legal studies in Little Falls, but soon after came to Utica and studied with Denio & Hunt. He was admitted to the bar in 1839, and immediately rose to the front rank at the bar. His acquirements were unusual, and his industry was almost unparalleled. No matter how trivial the case might be, he made the most thorough investigation and did everything possible to prepare his case for trial. He was very quick of perception, a profound lawyer and a courteous gentleman. He was a member of the city council in 1839-44-45, and was mayor of Utica in 1853. In 1869 he was elected justice of the supreme court and served until his death. He was one of the few men who has occupied a seat upon the bench in this State of whom it could be said he was a great judge. Becoming absolutely worn out by overwork, he was advised by his physician to take a trip abroad. He sailed from New York in May, 1874, and was lost overboard. No account was ever given of his

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disappearance, whether by accident or otherwise. The date of his death is given as May 21st, 1874.

Henry A. Foster was born at Hartford, Connecticut, May 7th, 1800, and died at Rome, New York, on the 11th day of May, 1889. He came to the State of New York and entered the office of David B. Johnson, of Cazenovia, as a law student. Afterwards he studied law at Rome, and was admitted to the bar in 1822. In 1826 he was elected to the assembly, and was appointed surrogate in 1827. This office he relinquished in 1831 to take his seat as a State senator. He was again appointed surrogate, but resigned in 1837, and immediately was elected a member of the United State house of representatives. In 1840 he was again elected to the senate; during this term he was appointed by the Governor United States senator to fill a vacancy. In 1853 he was appointed United States district attorney, but declined the appointment. In 1863 he was elected a justice of the supreme court and removed to Oswego, where he resided until his term of office expired, when he returned to Rome. Judge Foster was unquestionably one of the greatest lawyers that the State has ever produced. He was elegant and dignified in his manner, although at times impatient and irascible, but his high character, great ability and acquirements placed him very near, if not at the very top, of the legal ladder in this part of the State.

Philo Gridley was born at Paris, Oneida county, New York, September 16, 1796. He graduated from Hamilton College in 1816, and for a time was a teacher in a classical school, studied law, was admitted to the bar in 1820, and commenced practicing law at Waterville. From there he removed to Hamilton, Madison county, was district attorney of that county, and in 1838 was appointed circuit judge for the Fifth judicial dis-

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trict, and removed to Utica, where he afterward resided. Under the constitution of 1846, fixing the number of judges of the supreme court at thirty-two, Judge Gridley was elected as one of the number. He also served in the court of appeals. He presided at the trial of Alexander McLeod, the most important criminal trial that ever occurred in Oneida county. He died August 16, 1864, in the city of his residence.

Ward Hunt, born in Utica, June 14, 1810, was the son of Montgomery Hunt, cashier of the First National Bank of Utica. He entered Hamilton College, but soon after left Hamilton and entered Union College, from which institution he graduated in 1828. He studied law in Litchfield, Connecticut, and afterward in the office of Judge Denio, in Utica; was admitted to the bar in 1831, and formed a partnership with Judge Denio, and very soon rose to eminence as a trial lawyer. In 1838 and 1839 he was elected to the assembly. He was elected mayor of Utica in 1844; was a candidate for justice of the supreme court in 1853 against William J. Bacon, but was defeated. On the breaking out of the civil war, he left the Democratic party and became an ardent supporter of the government, and ever afterward was classed as a Republican. He was elected a judge of the court of appeals in 1865, and took the seat vacated by his former partner, Judge Denio. As a vacancy in the office of chief judge occurred, Judge Hunt for a time acted as chief judge of the court of appeals. By an amendment to the constitution the judiciary system of the State was changed, and that court was continued as the commission of appeals. Judge Hunt served as one of the commissioners until January 7th, 1873, when he resigned the position to accept the appointment of justice of the supreme court of the United States, having been nominated for that office by President Grant. For ten years he performed



WARD HUNT.

(1810-1886).

Lawyer and Jurist; Member of Assembly, 1839; Mayor of Utica, 1844; Associate Judge Court of Appeals, 1866-70; Member Commission of Appeals, 1870-72; Associate Justice United States Supreme Court, 1872-82.





*Ward Hunt*

Ward Hunt



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faithful service in this high court, and in 1882, on account of ill health, he resigned. He died in Washington, March 24th, 1886. Judge Hunt was a man of broad culture and honest impulses, was very dignified in manner, and commanded the respect and admiration of every member of the bar and of all who knew him.

Timothy Jenkins was born January 29th, 1799, at Barre, Massachusetts. He went from there to Washington county New York, receiving an academic education, and afterward removed to Utica and studied law. He was admitted to the bar in 1825. In 1832 he removed to Vernon. He was appointed district attorney in 1840 and held that position for five years. In 1844 he was elected as representative in congress and was re-elected in 1846 and also in 1850. He died December 24th, 1859. Mr. Jenkins has always been counted one of the ablest lawyers that Oneida county ever produced. He was a Democrat in politics until the question of slavery became the paramount question before the people. He then left the Democratic party and supported Fremont for the presidency, and was ever afterward a member of the Republican party.

Alexander S. Johnson was born in Utica, July 30, 1817. He graduated from Yale College in 1839. He entered the office of Judge Samuel Beardsley as a law student, and was admitted to the bar at the age of twenty-one years. In 1839 he went to New York, and practiced there until 1851, when he was elected judge of the court of appeals, being at that time only thirty-four years of age, and the youngest man who ever sat in that court. On retiring from the bench in 1860 he returned to Utica and resumed his practice here. In 1864 he was elected regent of the State University, and was appointed by President Lincoln United States Commissioner to settle the claims of the Hudson Bay and

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Puget Sound Companies. In 1873 he was appointed commissioner of appeals in place of Judge Hunt, and on the death of Judge Peckham, of the court of appeals, the governor appointed Judge Johnson a member of the court of appeals. He was nominated for the same office by the Republican party, but was defeated, as the State elected the Democratic ticket that year. In 1875 he was appointed one of the commissioners to revise the statutes of the State. In October of the same year he was appointed judge of the United States circuit court for the Second Circuit. He died January 26th, 1878. He was a man of broad culture, thoroughly versed in law, conscientious and faithful in all the great duties of his eventful life, and stood in the front rank among the judges, State and Federal.

Francis Kernan was born in Tyrone, Schuyler county, January 14, 1816. At the age of seventeen he entered Georgetown College, D. C., and graduated in 1836. He commenced studying law in the office of Edward Crim, at Watkins, New York. Soon after he came to Utica and entered the office of Joshua A. Spencer, and there completed his studies. He was admitted to the bar in 1840 and immediately was taken into partnership by Mr. Spencer. From 1854 to 1857 Mr. Kernan was reporter of the court of appeals. In 1860 he was elected to the assembly, and in 1862 he was elected to congress over Roscoe Conkling, but two years later was defeated by Conkling for the same office. He was a delegate to the constitutional convention in 1867, and was elected regent of the State University in 1870. He was nominated for governor in 1872, but was defeated by General Dix. In 1874 he was elected to the United States senate and served with distinction in that body. At that time the city of Utica enjoyed the distinction of having both United States senators from the State of New York. He died September 8, 1892, in Utica. Mr.

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Kernan was technically a lawyer, he thought as a lawyer, he tried his cases like a lawyer, and, although not a great advocate, he argued a law point with consummate ability, and ranked among the very first in the State, and was always listened to by all the courts with the utmost attention.

Orsamus B. Matteson was born August 28, 1805, in Vernon. He died in Utica, December 22, 1889. He received a common school education, and studied law with Green C. Bronson; was admitted to the bar in 1830, and was elected city attorney of Utica the same year. In 1846 he was nominated for member of congress, but was defeated by Timothy Jenkins. He was a candidate again in 1848 and was elected, but was defeated in 1850. Afterward he was elected in 1852-54 and 1856. He was second to no man in influence in the house of representatives, and took strong ground against slavery. After his retirement from congress he devoted much time to politics, and was a potent factor in the Whig and Republican parties. At one time the firm of Matteson & Doolittle did, perhaps, the most lucrative law business that was ever obtained in the city of Utica. Mr. Matteson was a great business man rather than a great lawyer. At one time he was a very wealthy man, but before he died had lost his entire fortune through unfortunate endorsements. He died in Utica, on the 22nd day of December, 1887.

William H. Maynard was born in Conway, Massachusetts. Soon after his graduation from college he removed to New Hartford, Oneida county, New York, and commenced studying law with General Joseph Kirkland. He also obtained an interest in the *Utica Patriot*, and contributed to its columns until 1824. For a time he was a partner with Samuel A. Talcott. He was not admitted to practice in the supreme court until 1818. In 1828 he was elected State senator and continued until 1832. In

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1828 he became a partner with Joshua A. Spencer. Among the members of the bar contemporary with Mr. Maynard he was counted their equal, if not their superior, in knowledge of the law.

Jonas Platt was born at Poughkeepsie, June 30th, 1769, studied law in New York, and was admitted to the bar in 1790. The following year he settled in Whitesboro, and in 1791 was appointed clerk of Herkimer county, which position he held to the organization of Oneida county, and then became the first clerk of Oneida county. In 1796 he was elected to the assembly, and in 1799 he was elected a representative in Congress. From 1810 to 1813 he was State senator, and in 1810 was the Federal party's candidate for governor, but was defeated by Daniel D. Tompkins. In the senate he and DeWitt C. Clinton were instrumental in procuring the necessary legislation which established the Erie canal. Mr. Platt was afterwards appointed one of the judges of the supreme court, and was legislated out of office by the constitution of 1821. This constitution was framed by a convention of which Mr. Platt was a member. He returned to the practice of his profession in Utica, and eventually went to New York, where he held a prominent place at the bar. On February 22nd, 1834, he died at Peru, Clinton county, New York.

John Savage was born at Salem, Washington county, New York, February 22nd, 1779. He graduated from Union College in 1799, was admitted to the bar, and commenced the practice of his profession in Washington county. Soon after he was appointed district attorney of the Northern District of New York. This position he resigned on account of ill health, but was re-appointed afterward. In 1812 he was elected to the assembly, and later served two terms in congress, 1814-18. He was then appointed comptroller of the State, and occupied that position until



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1822, when he was appointed chief justice of the supreme court. This office he held from 1823 to 1836. He resigned this position and practiced law for a short time at Utica, and also filled the position of clerk of the supreme court. He had returned to Utica, after an absence to visit his old home in Salem. He died at Utica, October 19, 1863.

James S. Sherman was born in Utica, October 24th, 1855; prepared for college at Whitestown Seminary, and graduated from Hamilton College in 1878. He studied law in Utica in the office of Beardsley, Cookinham & Burdick; was admitted to the bar in 1880, and formed a partnership with Henry J. Cookinham, under the firm name of Cookinham & Sherman, afterwards Cookinham, Sherman & Martin, and later Cookinham, Sherman & Cookinham. He was mayor of Utica in 1884; was elected representative in congress in 1886, and was continually in congress from that time until 1908, with the exception of one term when he was defeated by Henry W. Bentley. In 1908 he was the nominee of the Republican party for vice-president of the United States, was elected, and took the office the 4th of March, 1909.

Joshua Spencer, perhaps the foremost advocate that ever lived in the United States, was born at Great Barrington, Massachusetts, May 13, 1790; removed to Lenox, Madison county, and from there to Utica. Justice Ward Hunt said of him: "He is like Saul among his brethren; head and shoulders above us all". He started life as a clerk in a country store. He enlisted in the war of 1812, and remained at Sacketts Harbor until his term of enlistment had expired. Upon his admission to the bar he commenced practicing law in Madison county. In 1829 he formed a partnership with William H. Maynard and removed to Utica. William H. Seward once said to the son of Mr.

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Spencer: "Your father is as tall as a giant, has the eye of a hawk, a voice like a lion, and he seizes hold upon the witness and tears him in pieces". In 1841 he was appointed United States district attorney for the Northern District of New York. The next year he was elected State senator. In 1848 he was elected mayor of Utica, and about this time he said to his son, on returning from a circuit: "I have now tried cases in every county in the State". Mr. Spencer was selected to defend Alexander McLeod in his famous trial at Utica. The case was too easy for the defense to bring out Spencer's best powers, for he was always greatest in a hard case. As an illustration of the interest taken in England in this trial of McLeod it will be remembered that Parliament voted twenty thousand pounds for his defense.

No other lawyer ever lived in Central New York who had so great an influence as Mr. Spencer. It was said of him that when he entered the court room all business was suspended and all eyes were fixed upon him until he had taken his seat. Judge Bacon says of him: "We shall not soon, if ever, see his equal before that tribunal which, it is said, it is the object of all government to secure,—twelve honest men in the jury box". He died at Utica, April 25, 1857.

Horatio Seymour was born at Pompey, Onondaga county, May 21, 1810. Soon after, his father removed to Utica, where young Seymour was educated until he attended what is now Hobart College; he remained in this institution only two years. He studied law in Utica with Green C. Bronson and Samuel Beardsley, and was admitted to the bar in 1832. He did not devote himself to the practice of the law, but very soon became prominent in Democratic politics. In 1841 he was elected to the assembly. He was elected mayor of Utica in 1842, and in 1843-

## *HISTORY OF NEW YORK*

1844 he was again elected to the assembly. He was speaker of the assembly, and, in 1850 was the candidate of his party for governor, but was defeated. He was renominated in 1850 and elected. He was offered the nomination in 1854, but declined. He was again elected in 1862, and was the candidate of his party in 1864, but was defeated. In 1868 he was the Democratic candidate for president of the United States, but was defeated by General Grant. Governor Seymour was very highly esteemed, but although personally extremely popular, as a candidate for public office he never succeeded in getting the full support of his own party in the community in which he resided. He died February 12, 1886.

Alvin Stewart was born at South Granville, Washington county, New York, September 1st, 1790. After his graduation from Vermont University he went to Canada and taught school there for a time. Mr. Stewart was in his early life what might be called a "rover," going from place to place, teaching school, or doing anything to obtain a livelihood, but finally he settled down to the practice of law. He was in Canada at the breaking out of the war of 1812, and as he could not remain there came back to the States and found himself at Middleboro, New York, where he was arrested as a spy. At the time a regiment of soldiers was located there, and Stewart thought his arrest a joke played on him by the soldiers; he, however, soon ascertained that it was a very serious matter. A drumhead court martial was convened to try him, and it was a very solemn court until Stewart was permitted to speak for himself. He said afterwards that he would give almost anything he had if he could reproduce the speech that he made to this court. He remembered beginning in the following manner: "I think myself happy, O President of this court martial, because I shall answer for myself this day before three, touching all things whereof I am accused of these

## LEGAL AND JUDICIAL

soldiers". He then proceeded to speak for an hour or more, and so amused the court that it broke up in a hilarious manner, and the result was not only his acquittal but he was the hero of the occasion. He finally settled in Utica and at once took front rank at the bar. He was not only a great lawyer but a great orator. His sense of humor was remarkable, and he used it to the very best advantage. He was an intense anti-slavery man, and his services were demanded wherever a legal question arose touching the subject. Perhaps the greatest legal argument he ever made was before the supreme court of New Jersey in the case of the State against John A. Post. In this case the constitutionality of an act of the State of New Jersey touching slavery was involved. Luther R. Marsh, speaking of the humor of Mr. Stewart, says: "I have seen the supreme court room, with Nelson, Bronson & Cowen on the bench, in an uproar at his manner of reading a dry affidavit, and the judges themselves unable to maintain their gravity". In the great excitement over the slavery question in Utica, Stewart was foremost in the advocacy of human rights. He presided at the anti-slavery convention that was held October 21, 1835, and which was broken up by mob violence led on by some of the foremost citizens, because men dared to speak in favor of human freedom. The delegates to the convention were obliged to flee the town, and Mr. Stewart's house was barricaded, and armed men protected it from the mob. The service which he rendered to the cause of freedom cannot be well over-estimated. He died May 1, 1849."

Henry R. Storrs was born at Middletown, Connecticut, September 3rd, 1787. He graduated from Yale College in 1804, and was admitted to the bar in 1807. He practiced law first in Champion, afterwards at Whitesboro, and later at Utica, New York. He was judge of the court of common pleas for five years, and

## HISTORY OF NEW YORK

one year was chief judge. He was elected a representative in congress in 1819, and also served in the same capacity from 1823 to 1831. During his entire congressional career he ranked with the very first men in either house of congress. He was one of the best debaters and lawyers in the country. On the expiration of his last term in congress he removed from Utica to New York, and practiced law in that city, where he took a very prominent place at the bar. He died July 29, 1873, at New Haven, Connecticut.

Samuel A. Talcott was born at Hartford, Connecticut, December 31, 1789. He graduated from Williams College in 1809, at the age of nineteen, and studied law with Thomas R. Gold, of Whitesboro, Oneida county. After his admission to the bar he removed to Lowville, and in 1816 he removed to Utica, and from there to New Hartford. In February, 1821, he was appointed attorney general. After the expiration of his term as attorney general he removed to New York City, where he practiced law until his death in 1836. Mr. Talcott was unquestionably one of the greatest lawyers who has ever lived in this country. Chief Justice Marshall said of him: "His argument before the supreme court of the United States in the Sailors' Snug Harbor case has not been equalled in that court since the days of William Pinckney".

Nathan Williams was born in Williamstown, Massachusetts, December 19, 1773. He removed to Utica about 1797, and was the first lawyer to settle permanently in Utica. He was district attorney for the Sixth District of the State from 1801 to 1803. He also served in the same capacity for Oneida county from 1818 to 1821. He was elected a representative in congress in 1805, and was an assemblyman in 1816-18-19; was a delegate to the constitutional convention in 1821; and was appointed judge

## LEGAL AND JUDICIAL

of the circuit court in April, 1823, but resigned the position some years afterward and removed to Geneva, New York, when he was appointed clerk of the supreme court. He died September 25, 1835.

The following are the judicial officers of Oneida county from its organization to 1910:

Chief justices supreme court of judicature:—John Savage, January 29, 1823. Green C. Bronson, March 5th, 1845. Samuel Beardsley, June 29, 1847. He served as puisne justice from February 20, 1844.

Judges of circuit court:—Nathan Williams, April 21, 1823. Samuel Beardsley, April 12, 1834. Hiram Denio, May 7, 1834. Philo Gridley, July 17, 1838.

Judges of common pleas and county courts:—1798, March 22. Jedediah Sanger, of Whitestown, first judge; Hugh White and David Ostram, of Whitestown, James Dean, of Westmoreland, and George Huntington, of Rome, judges. 1801, January 28. Silas Stone, of Lowville, judge. 1801, August 21. Messrs. Sanger, White, Dean, Ostram, and Huntington, reappointed, with Thomas Hart additional. 1802, March 13. Nathan Sage and Henry Coffeen, of Redfield. 1803, March 31. Needham Maynard. 1804, April 3. Chauncey Gridley. 1804, July 3. Messrs. Sanger, Dean, Ostram, Huntington, Sage, Coffeen, Maynard, and Gridley, reappointed. 1805, February 15. Messrs. Sanger, Dean, Sage, Maynard, Ostram, and Gridley, reappointed; and March 25, Samuel Dill; and April 8, Apollis Cooper, additional. 1808, March 22. Messrs. Sanger, Dean, Gridley, Sage, Dill, Cooper, reappointed, and Joseph Jennings and Jarvis Pike, additional. 1810, March 5. Morris S. Miller, first judge; Jedediah Sanger, Henry McNeil of Paris, Abram Camp of Whitestown, and Timothy W. Wood. 1813, February

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23. Morris S. Miller, James Dean, David Ostram, Henry McNiel, George Brayton, Richard Sanger, Jesse Curtiss, Gerrit G. Lansing, Benjamin Wright, John Storrs, Peter Pratt. 1814, April 5. Messrs. Miller, Dean, Ostram, McNeil, Curtiss, Lansing, Wright, Storrs and Pratt, reappointed; and Levi Carpenter, Jr., and Frederick Stanley, additional. 1815, April 15. Morris S. Miller, Joseph Jennings, Solomon Wolcott, Prosper Rudd, Daniel Ashley, Peter Pratt, James S. Kip, Sherman Barnes, Thomas H. Hamilton, Asahel Curtiss, Charles Wylie, Joseph Grant. 1818, April 24. Messrs. Miller, Wylie, Grant and Hamilton with Ezekiel Bacon, additional. 1821, March 21. Messrs. Miller, Grant, and Hamilton, with Truman Enos and Joshua Hathaway, additional. 1823, February 3. Messrs. Miller, Enos, Hathaway and Grant, with Samuel Jones, additional. 1824, November 22. Samuel Beardsley, first judge, in place of Morris Miller, deceased. 1825, March 9. Henry R. Storrs, in place of Samuel Beardsley, who declined the appointment. 1826, April 5. James Dean (son of former Judge Dean), in place of Truman Enos, who resigned upon his election to the state senate. 1828, February 5. Messrs. Hathaway, Grant and Jones, reappointed. 1830, January 15. Chester Hayden, first judge, and Israel Stoddard. 1831, April 8. Reuben Tower, of Sangerfield, in place of James Dean, whose term had expired. 1832, February 10. Nathan Kimball, of Augusta, in place of Reuben Tower, resigned. 1833, February 6. John P. Sherwood, of Vernon, and Aaron Comstock, of Western, in place of Messrs. Jones and Hathaway, whose terms had expired. 1835, January 23. Chester Hayden, of Utica, first judge, and Israel Stoddard, reappointed. 1837, February 21. Nathan Kimball, reappointed. 1838, February 2. Pomeroy Jones, of Westmoreland, in place of J. P. Sherwood, resigned; and March 9, Aaron Comstock, re-

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appointed. 1840, February 2. Fortune C. White, of Whites-town, first judge, vice Hayden; and April 14, Seth B. Roberts, of Rome, vice Stoddard. 1843, February 10. Chester Hayden and Amos Woodworth, of Florence, vice Messrs. Kimball and Comstock, whose terms had expired, and Pomeroy Jones, re-appointed. 1845, February 21. P. Sheldon Root, of Utica, first judge, vice White; and April 14, Ebenezer Robbins, of Lee, vice Roberts. 1846, May 12. Othniel S. Williams, of Kirkland, vice Hayden.

Justice of the supreme court of the United States:—Ward Hunt, September, 1872.

Judges of circuit court of the United States: Alexander S. Johnson, October, 1875. Alfred C. Coxe, 1903.

Judge of district court of United States: Alfred C. Coxe, May 4, 1882.

District attorneys for the northern district of New York: Samuel Beardsley, 1823. Henry A. Foster, 1853.

Judges of court of appeals:—Alexander S. Johnson, appointed November 4, 1851. Hiram Denio, appointed June 23, 1853, elected November, 1857. Ward Hunt, elected November 7, 1865.

Commissioner of appeals: Ward Hunt, July 5, 1870. Alexander S. Johnson, January 7, 1873.

Justices of supreme court:—Philo Gridley, 1847. William J. Bacon, 1853 and 1861. Henry A. Foster, 1863. Charles A. Doolittle, 1869. Milton H. Merwin, 1874 and 1888. William E. Scripture, 1895. Pascal C. J. De Angelis, 1907.

Attorneys general:—Samuel A. Talcott, July 8, 1819. Green C. Bronson, February 27, 1829. Samuel Beardsley, January 12, 1836. John C. Davies, November, 1898 and 1900.

County judges:—(appointed): Jedediah Sanger, 1798.



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Morris S. Miller, 1810. Samuel Beardsley, 1824. Henry R. Storrs, 1825. Chester Hayden, 1830. Fortune C. White, 1840. P. Sheldon Root, 1845. (Elected): P. Sheldon Root, 1847. George W. Smith, 1859. Joel Willard, 1867. Alexander H. Bailey, 1871. William B. Bliss, 1874. William B. Sutton, 1880. Isaac S. Evans, 1886. Watson T. Dunmore, 1892. George E. Pritchard, 1904.

Surrogates:—Arthur Breese, March 19, 1798. Joshua Hathaway, March 23, 1808. Erastus Clark, February 23, 1813. Green C. Bronson, April 13, 1819. Joshua Hathaway, February 19, 1821. Henry A. Foster, March 31, 1827. Alison Bennett, January 12, 1831. Henry A. Foster, January 27, 1835. John Stryker, August 22, 1839. Othniel S. Williams, June, 1847. Henry M. Burchard, November, 1855. Joseph S. Avery, November, 1863 and 1869. Stephen H. Van Dresar, November, 1877. William B. Bliss, November, 1883. William H. Bright, November, 1889. Henry W. Bentley, appointed, 1894. Frederick M. Calder, elected, November, 1894 and 1900. Michael H. Sexton, November, 1906.

### ESSEX COUNTY

Upon the erection of Essex county in 1799 the county seat was established in the town of Essex, and there the courts were held and the general county business transacted until about 1811. Daniel Ross was the first county judge, and as no public buildings had been erected, he held his court and confined the prisoners in the little block house which had been erected there in 1797 as a protection against the Indians.

In 1807, Peter Sailley, David Thomas and John Savage were named by the legislature as commissioners to select the

## LEGAL AND JUDICIAL

site for the court house. It was several years, however, before the building was finished, for, subsequently, Manoah Miller, Theodorus Ross and Delavan Delancy were named as commissioners to superintend its completion. In May, 1812, the county was assessed \$2,500 for "the building and completing the Essex county court house", but it was not until about 1814 that the building was ready for occupancy.

This first court house stood near the site of the subsequent county building in Elizabethtown village. Not long after its completion it was burned, but it was rebuilt on a similar plan. Again it was burned in March, 1823. After this second destruction of the building it was deemed advisable to erect a more commodious structure, and steps were taken to expend about \$15,000 for that purpose. In the beginning only part of the brick building which has remained standing until the present generation, was put up. This was in 1824, and the structure was only one story high. In 1843 a second story was added, and in this the court room was established. Nearly forty years later, in 1888, the main part of the building was further enlarged and a wing added to it for the accommodation of the county officers. After the destruction of the court house in 1823, the legislature passed a special act, in April of that year, providing for the meeting of the court of common pleas, and the next circuit court "at the house of Pollous (Apollus) A. Newell in Elizabethtown", and making it lawful "for the court of common pleas to designate any place in the town for the holding of the court."

Daniel Ross, the first county judge, was a native of Dutchess county, and removed to Essex in 1784. For a short time he was a resident of Clinton county, and was sheriff there from 1794 to 1797, and a member of the assembly in 1798. His first election as judge of Essex county was in November, 1800, and he

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held that office until January, 1823. Dean Edson succeeded him as judge and held that office until 1831. Previously he had been district attorney from 1821 to 1828.

Pre-eminent among the early members of the Essex county bar was General Henry H. Ross, who was born in Essex village, was graduated from Columbia College, New York, in 1808, and began the practice of law in 1811. He was a member of the nineteenth congress, and was elected county judge in 1847, but soon afterwards resigned that office. In the presidential election of 1848 he was president of the electoral college. Although public office was frequently offered to him, he preferred to devote himself to his profession, and in that he was regarded as easily the foremost man of his day and generation in Essex county.

Succeeding General Ross in point of time and services at the bar was Judge Augustus C. Hand, who for many years was the acknowledged leader of the attorneys of Northern New York. He was born in Vermont and educated in that State, but began the practice of law in Crown Point, Essex county, in 1829. There he remained until 1831, when at the age of twenty-seven he was appointed by the governor to be surrogate of Essex county, and for nine years faithfully discharged the duties of that office. Coincident with his appointment as surrogate he removed to the county seat, Elizabethtown, and made that place his residence during the remainder of his life. He was a member of the twenty-sixth congress, and also served in the State senate. Under the constitution of 1846 he was elected a justice of the supreme court, and served nearly eight years in that capacity with great distinction. During the year 1855 he was a member of the court of appeals. Concerning his service on the bench it has been said that "to no judge during that important

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period of our judicial history the legal profession is more indebted for laborious and exhausted examination and sound, accurate determination of the newly vexed questions of the time."

Also ranking high in the estimation of his associates of the Essex county bar was George A. Simmons, a native of New Hampshire, and a graduate of Dartmouth College. From 1834 until the time of his death he was settled in practice in Keeseville. In 1846 he was a member of the constitutional convention, and in 1840-1842 was a member of the State assembly from Essex, and from 1853 to 1857 was a representative in congress. He was held in the highest esteem both personally and professionally by all who knew him. Chancellor Reuben H. Walworth once said of him, "I consider him one of the most eminent men in the state."

Another prominent lawyer of Essex was Orlando Kellogg, who was a native of Elizabethtown, where he was born in June, 1809. At the age of twenty-two he began the study of law and was soon after admitted to practice. In 1840 he was appointed surrogate of the county and held that office for four years. Subsequently he was elected a member of congress, but afterwards returned to the practice of his profession, which he followed closely until 1862, when he was again elected a representative to congress and re-elected in 1864.

Of Robert S. Hale it has been said that "the lawyer among those who made Essex county their home most widely known is, perhaps, Judge Hale." He was a native of Vermont. Educated in the University of Vermont in the class of 1842, he soon after came to Elizabethtown, where he completed his legal studies. In 1856 he was elected county judge and surrogate, and held that office eight years. In 1865 he was elected to the thirty-ninth congress, and again returned to the national house in 1873. His

## HISTORY OF NEW YORK

services in congress brought him high reputation, and he was retained by the State Department of the United States as attorney in many important cases. Particularly was his work of a most important character as attorney before the Mixed Commission on British and American Claims under the treaty with Great Britain known as the Treaty of Washington.

County judges have been: Daniel Ross, 1800; Dean Edson, 1823; Reuben Whallon, 1831; Wolcott Tyrill, 1838; Henry H. Ross, 1847; John E. McVine, 1848, Robert S. Hale, 1856; Byron Pond, 1864; Byron Pond, 1864-1878; Francis A. Smith, 1879-1891; Chester B. McLaughlin, 1892-1895, and Rowland C. Kellogg, 1895-1904.

Surrogates were: William Gilliland, 1800; James McCrea, 1801; Thomas Treadwell, 1807; Ezra C. Gross, 1815; Ashley Pond, 1819; John Calkins, 1821; Augustus C. Hand, 1831; Orlando Kellogg, 1840; Robert W. Livingston, 1844.

District attorneys have been: Ralph Hascall, 1818; Dean Edson, 1821; David B. McNeil, 1828; Gardner Stone, 1833; Moses T. Clough, 1844 and 1847; Edward S. Shumway, resigned 1850; James P. Butler, 1852; Hiram M. Chace, 1855; Byron Pond, 1858; Artemus B. Waldo, 1861; Martin Finch, 1864; Arod K. Dudley, 1867 and 1876; Rowland C. Kellogg, 1877-1885; Robert Dornburgh, 1886-1891; Arod K. Dudley, 1892-1897; Milo C. Perry, 1898-1903, and Patrick J. Finn, 1904-1911.

### CAYUGA COUNTY

Originally Cayuga county was a part of Onondaga, along with Seneca and Cortland and part of Tompkins, Wayne and Oswego. Cayuga was formed March 8, 1799, and its territory then comprised what subsequently became Seneca county and

## LEGAL AND JUDICIAL

also a part of Tompkins county. The first settlement within the present limits of the county was made in 1789, and by the close of the century there were over fifteen thousand inhabitants in it.

Until 1799 the courts were held in various parts of Onondago county, but on the third Tuesday in May, Seth Phelps, county judge, held the first court in the village of Cayuga in Cayuga county. At this court rules were adopted for the government of the officers, counsellors, attorneys and ministers of the court, and all other persons connected therewith. There were thirty-five specific rules, and they furnished a clear exposition of the practices of the courts at that time. Gaol liberties were ordered to be established at Cayuga village in conformity with the terms of the act which governed the county courts, and authority was given to fix "gaol liberties" and determine the place at which the courts were to be held.

Until 1804 the county courts were mostly held at Cayuga, but at that time the "gaol liberties" were transferred to Aurora. Seth Phelps, the first judge, held the courts at Cayuga from 1799 until 1804, and the judges who were associated with him were: Seth Sherwood, John Tillartson, William Brewster, and Joseph Ammin. The justice were: Elisha Fitch, Ezekiel Crane, John L. Hardenburgh and John Beardsley. Among the attorneys who were most prominent in practice before the courts at that time were: Elijah Miller, Daniel Shepard, Thaddeus M. Wood, Walter Wood, Thomas Munford and Silas Marsh. A log jail was erected at Cayuga near the shore of the lake. This building was constructed of hewn logs, and directly over it was the toll house at the east end of the Cayuga bridge. Prisoners were lodged in the jail by being let down by ladders through a trapdoor in the floor of the toll house overhead.

WILLIAM H. SEWARD.

(1801-1872).

Lawyer and Statesman: State Senator, 1831-34; Governor, 1838-42; United States Senator, 1849-61; Secretary of State in Lincoln's and also in Johnson's Cabinet.







**William H. Seward**



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In March, 1804, Seneca was detached from Cayuga, and therefore it became necessary to change the place for holding the courts to a location more accessible to the people of the county as then constituted. A law was enacted fixing the site for the court house at Sherwood Corners, in the town of Scipio. This action of the legislature was not at all satisfactory to most of the people of the county, and in the June following commissioners, appointed for the purpose, designated Hardenburg Corners, in Auburn, as the site for the court house. The new court house, which was erected at a cost of \$10,000, was built in 1809. The jail was located on the first or ground floor of this wooden building, and the court room in the second story, the latter being constructed of hewn logs. While the work of building the court house was going on, the records of the courts were retained at Aurora, whither they had been brought in 1807 by Peter Hughes, county clerk, and kept in his house. There they were kept until the clerk's house was built in 1814. The stone court house was planned in 1835, and was built at a cost of \$30,000.

Morgan Lewis, afterward governor of the State, held a circuit court at Cayuga in June, 1800. Ambrose Spencer, justice of the supreme court, held a court of oyer and terminer in the Aurora Academy in 1804, in which the celebrated case of Delaware John, an Indian who had killed Ezekiel Crane, was tried, the defendant being convicted and sentenced to be hanged.

The first county court in Auburn was held in the new and unfinished court house in May, 1809, the preceding January term having been held in Aurora. Elijah Price was the presiding judge, and Barnabas Smith and Charles Kellogg were the justices. The first circuit court in Auburn was held by Ambrose Spencer in July, 1808.

Most prominent among the early county judges was Seth

## LEGAL AND JUDICIAL

Phelps, who was judge of Onondaga in 1794, and continued in the same office for Cayuga county; other judges have been Walter Wood, 1810; Elijah Miller, 1819; Gershom Powers, 1823; Joseph L. Richardson, 1827; John P. Hulburt, 1847; George Humphreys, 1851; Charles C. Dwight, 1859; William E. Hugitt, 1863; S. Edwin Day, 1877.

Special county judges, with dates of their appointment or election, have been: Charles J. Hulbert, 1852; Fayette G. Day, 1857; Amzi Wood, 1863; William B. Mills, 1872; Reuben F. Hoff, 1874; Frank M. Parsons, 1877; and Franklin B. Tabor, 1880.

District attorneys of the county have been: William Stuart, Daniel W. Lewis, Vincent Matthews, Daniel Conger, Joseph L. Richardson, John Porter, Theodore Spencer, Richard L. Smith, Michael S. Myers, Dennison Robinson, Luman Sherwood, 1844; Ebenezer W. Arms, 1847; Theodore M. Pomeroy, 1850; Solomon Giles, 1856; George I. Post, 1859; Richard C. Steel, 1862; Charles C. Dwight, 1866; William B. Mills, 1866; Sereno E. Payne, 1872; Robert L. Drummond, 1878.

Surrogates, with dates of their appointment or election, have been: Glen Cuyler, 1799; Eleazer Burnham, 1811; Glen Cuyler, 1813; Eleazer Burnham, 1815; Seneca Wood, 1820; Benjamin L. Cuyler, 1821; John Porter, 1828; Thomas Y. How, Jr., 1836; George H. Wood, 1840; Charles B. Perry, 1844; Jacob R. How, 1847; William B. Woodin, 1859; John T. M. Davie, 1871.

## GREENE COUNTY

The first court of common pleas in and for the county of Greene was held in Catskill, May 6, 1800. The first judge, Leonard Bronk, presided, and on the bench with him were

## HISTORY OF NEW YORK

Samuel Van Vechten, Stephen Day and Thomas E. Barker, associate judges. Dorrance Kirtland, Stoddard Smith, Frederick H. Gebhard, Henry J. Brush, Isaac Hensen, Jesse Burhs, John W. Crane, William Frazer, James Thompson, Elihu Chauncey Goodrich and James Pinkney were admitted to practice. A county seal was adopted, and this is described in the records as "a sword erect supporting a balance;" the motto around the seal, "County of Greene."

The September term of the court for that year was held at the house of John R. Vandenberg, in Coxsackie, but afterwards it was regularly held in Catskill. During the first four years of its existence the calendar for each term of the court contained the following number of cases: 1800, September, 58; 1801, January, 134; 1801, May, 135; 1801, September, 173; 1802, January, 225; 1802, May, 169; 1802, September, 235; 1803, January, 257; 1803, May, 254; 1803, September, 173.

Among other attorneys who were admitted to practice during the early years of the court were Ambrose Spencer, John M. Canfield, Hezekiah Burhans, Hezekiah L. Hosmer, John Van der Spiegle Scott, David Horsford, Reuben Horsford, Alexander Fraser, Elisha Williams, Abraham Van Dyke, Philip Gebhard, Moses C. Cantine, Francis Pruyn, Philip Parker, William W. Van Ness, John Champlin, Joseph D. Monell, Thomas P. Grosvenor, Amos Eaton, Robert Dorlan, John Adams, Caleb Day, Herman M. Romeyn, Lewis Benton, G. W. Ludlum, Allen Jordan, Gerritt Van Bergen, A. L. Jordan, J. Houck, Jr., Leonard Bronk, Jr., Malbone Watson, Robert Colvard, Benedict Bagley, John Van Vleck, Edgar B. Day, Amasa Mattoon, George W. Buckley, George White, Richard Van Dyke, Darius Peck, John Sanders, Jr., P. H. Silvester, and Theodore Romeyn.

At the adjourned meeting of the court of general sessions

## LEGAL AND JUDICIAL

in September, 1806, at the house of John R. Vandenberg, in Coxsackie, there were present Stephen Day and Thomas E. Barker, judges, Philip Conine, Jr., Samuel Reed, and Peter A. Bergen, assistant justices. The business before the court was three cases of assault and battery, and one case against the commissioners of highways of the town of Coxsackie for neglect of duty.

When the county was fully organized, the courts were held in the building then called the academy, in which a school was kept. County criminals were confined in the Albany county jail. In 1801 the academy and its site was purchased by the county for "one hundred cents good and lawful money" and in January, 1803, the court of common pleas directed the sheriff to take possession of the building and grounds. In March of the same year the legislature authorized the supervisors to raise \$1,000 with which to build the jail, and a year later the supervisors were authorized to raise another sum of \$1,000 for the same purpose. This jail building of stone has lasted to the present day; standing a little west of the site of the jail in modern times.

The building of the new court house was authorized by an act of the legislature May 26, 1812. This was built on the site formerly occupied by the academy building, but soon afterwards it was burned. In its place a new court house was constructed on a new site about 1819. This is the building which has continued until modern times. It is constructed of brick, and contains the court room and sheriff's office in the second story, and the supervisors' room, grand jury room and county clerk's office in the first story.

County judges, with the years of their appointment or election, have been: Leonard Bronk, 1800; Garret Abeel, 1810;

LYMAN TREMAIN.

(1819-1878).

Distinguished Lawyer; District Attorney Greene County, 1844-7; County Judge Greene County, 1847-51; removed to Albany and became law partner of Rufus W. Peckham; Attorney General, 1857-59; Member and Speaker of Assembly, 1866; Member of Congress at Large, 1873-75; Counsel for the people on the trials of the indictments for homicide against Mrs. Hartung and General Cole; on the trial for frauds against William M. Tweed; and counsel for the defendant, Edward S. Stokes, on his trial for the assassination of James Fisk, Jr.

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Lyman Tremain



## HISTORY OF NEW YORK

Moses I. Cantine, 1818; John V. D. S. Scott, 1821; Dorrance Kirtland, 1828; Perkins King, 1838; Lyman Tremain, 1847; Alexander H. Bailey, 1851; F. James Fitch, 1855; John A. Griswold, 1863; John Olney, 1867; A. Melville Osborne, 1870; Manley B. Mattice, 1870; John Anderson, 1888, and Josiah C. Tallmadge, 1900.

Surrogates, with the year of their appointments, were, preceding the constitution of 1846: John H. Cuyler, 1800; Dorrance Kirtland, 1808; John Adams, 1810; Dorrance Kirtland, 1811; Malbone Watson, 1838.

District attorneys of the county since 1819 have been: Alexander Fraser, 1819; Erastus Barnes, 1827; Lewis Benton, 1828; Malbone Watson, 1832-37; Lucius Robinson, 1837-1839; Danforth K. Olney, 1840-1845; Lyman Tremain, 1846-1847; Rufus W. Watson, 1847; Danforth K. Olney, 1850; Peleg C. Mattoon, 1853; John A. Griswold, 1856; James B. Olney, 1859; James B. Olney, 1862; A. Melville Osborne, 1865; William E. Leete, 1868; Sidney Crowell, 1871; Addison C. Griswold, 1874; Eugene Raymond, 1877; G. Howard Jones, 1880; Augustus Sherman, 1883; Josiah C. Tallmadge, 1889; Edward A. Gifford, 1892; Charles E. Nichols, 1898, and Pierre S. Jennings, 1904.

### ST. LAWRENCE COUNTY

Prior to 1801 the people of St. Lawrence county were compelled to journey to Montgomery, Oneida and Herkimer whenever they desired to transact legal business. In March of that year the town of Lisbon was incorporated by act of the legislature and was made the county seat of the county of Clinton. In the autumn of the same year the legislature was petitioned that this territory should be set off into a county to be

## LEGAL AND JUDICIAL

called St. Lawrence, and an act for this purpose was passed in March, 1802. It was agreed that the sessions of the court of common pleas and court of general sessions should be held in the old barracks in the town of Oswegatchie, and that one of the old stone buildings of the fort in that place should be considered the court house and jail of the county until a suitable building could be erected. The first court held in the county was presided over by Judge Nathan Ford, and was convened on the first Tuesday of June, 1802; John Tibbitts Jr. and Stillman Foot were the associate justices, and Louis Hasbrouck the county clerk.

Measures were soon taken for the erection of a court house and jail in Ogdensburg, and by the energy of Nathan Ford this was accomplished before the close of the year 1804. The court house was a plain rectangular building surmounted with a belfry, and, in November of 1804, Mr. Ford was able to declare that he had so far completed the house that the court was held in the court room, and part of the jail had been finished. In the new building no county clerk's office was provided, but Louis Hasbrouck made for himself a residence in the vicinity of the court house and established there the county clerk's office, keeping the records in his house for several years thereafter. This Hasbrouck house was destroyed by fire in the autumn of 1852.

After the court house was destroyed by the British in February, 1813, movements were initiated to remove the county seat from Ogdensburg, and it was even proposed to divide the county into two counties. In January, 1828, the legislature passed an act establishing the court house and other public buildings in Canton, and Ansel Bailey, David C. Judson and Asa Sprague, Jr., were appointed commissioners to superintend the erection of the court house, jail and clerk's office. Each building was of

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stone, and the court house was two stories high, the lower story containing a grand jury room, a room for constables and witnesses, and two jurors' rooms, the upper story being devoted entirely to the court room. The jail was in the basement story. In less than twenty years it was found that the accommodations of the court house were insufficient, and extensions and improvements were made at an expense of about \$2,000. In 1858 the work of building a new jail was begun and was completed in 1860, the cost of the site and fixtures being over \$13,000. This was built of Potsdam sandstone, and is a building of two stories and attic. In 1877 a wooden addition was erected on the north side of the jail for the accommodation of the sheriff and his family.

In 1893 the court house was burned. In its place the handsome structure which stands to this day was erected. The body of this building, which was considered one of the handsomest, most convenient and most complete court houses in the State, is of Canton stone trimmed with red sandstone. It is of Romanesque architecture, has a tower one hundred and twenty feet high and, at the entrance, two large arches with carved capitals. Over the entrance is carved the date "18—Court-house—93". On the pinnacle of this entrance is a statue of justice. The size of the main building is one hundred and twenty-one by seventy feet. On the first floor are the supervisors' room, the surrogate's room and various waiting rooms. On the second floor is the court room, the lawyers' room, the law library, the county judges' room, and several jury rooms.

First judges of the court of common pleas from 1802 until 1846 were: Nathan Ford, 1802-1820; David A. Ogden, 1820-1824; Aaron Hackley, Jr., 1823; John Fine, 1824-1825; David

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A. Ogden, 1825-1829; John Fine, 1829-1838; Horace Allen and John Fine, 1843-1846.

County judges since 1847, with the dates of their appointment or election, have been: Edwin Dodge, 1847, William C. Brown, 1855; Henry L. Knowles, 1863; Charles O. Tappan, 1871; Leslie W. Russell, 1877; John M. Kellogg, 1882; Leslie W. Russell, 1877-1882; John M. Kellogg, 1883-1895; Theodore H. Swift, 1895-1901; Ledyard P. Hale, 1901-1908; Clarence S. Ferris, 1908.

Special county judges from 1854 to 1879 were: William H. Wallace, 1854-55; William H. Sawyer, 1856-57; Edward Crary, 1858; Harvey D. Smith, 1858-59; Edward H. Neary, 1860; Edward Crary, 1861-63; Samuel B. M. Beckwith, 1864; Edward H. Neary, 1867-75; Vasco P. Abbott, 1876-1882; Gerritt Conger, 1882-1897; Arthur T. Johnson, 1897-1909, and George W. Fuller, 1909.

Surrogates of the county have been: Matthew Perkins, 1802; Andrew McCollom, 1809 to 1813; George Boyd, 1812; Gouverneur Ogden, 1813 to 1820; Silas Wright, Jr., 1821 to 1823; Horace Allen, 1824 to 1840; James Redington, 1840 to 1844; Charles G. Myers, 1844 to 1847; Benjamin B. Baldwin, 1847 to 1855; James Redington, 1855 to 1859; Harvey D. Smith, 1859 to 1863; Stillman Foote, 1863 to 1877; D. A. Johnson, 1877 to 1883; V. P. Abbott, 1880 to 1893; John A. Vance, 1893; Alric R. Herriman, 1900.

District attorneys of the county have been: Amos Benedict, Samuel Whittlesey, Amos Benedict, Jesse L. Billings, and Ela Collins, while Lewis and Jefferson counties were united in one district with St. Lawrence; John Scott, 1819; Bishop Perkins, 1821; J. W. Grant, 1840; William A. Dart, 1845; Charles G. Myers, 1847 and 1851; Thomas V. Russell, 1853-60;

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B. H. Vary, 1860-69; Leslie W. Russell, 1869-72; J. R. Brinkerhoff, 1872-1878; L. C. Lang, 1881-1885; Charles A. Kellogg, 1885-1894; Ledyard P. Hale, 1894-1900; George W. Hurlbut, 1900-1904; Clarence S. Ferris, 1904-1908; John C. Crapser, 1908.

### GENESEE COUNTY

Genesee county was taken from Ontario and erected by act of the legislature March 30, 1802. It is the oldest county west of Ontario. The first judge was Joseph Ellicott, who as surveyor had blazed his way through the forests west of New York and laid out the counties, towns and villages of the Holland Purchase. Immediately after the act was passed to form Genesee county, Ellicott gave his attention to the building of the court house and jail. In May, 1802, one of his associates writing to him said:

"I am happy in the promptness with which you have agreed to carry into effect the erection of the court house and jail as stipulated to be erected at the expense of the Company by Mr. Ogden and myself. This stipulation was one of the principal inducements towards our affecting the passage of the law establishing the new county."

Isaac Sutherland and Samuel F. Geer were employed as chief architects by Mr. Ellicott to adopt and carry out a building plan and from that plan was created the building known down to the present day at Ellicott Hall. It is built of heavy oak timbers, and three days were required to raise the frame work. The workmanship was of a superior order for those times, and the building remains a monument to the mechanical skill and the energy of its founder. It was finished so far as to permit of holding the first session of the court in the spring of 1803. The north half was used as a court room and jail; the south half for a tavern, and thus was occupied until about 1820. The tavern

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keeper was then dismissed and the whole upper part used as a court room, while the lower part, except the jail, became the residence of the jailer, and so continued until the erection of the new jail in 1850. For several years the old court house was used as a place for religious meetings, a gallery being put in for additional seating capacity.

In 1819 Ellicott addressed "the Honorable Judges of the Court of Common Pleas and the Supervisors of the County" to the effect that the needs of the county required an enlargement of the court room, and proposed, as agent of the Holland Land Company, to convey to the supervisors the triangular piece of land (now bounded by Ellicott, Main and Court streets), the consideration being for the county to pay \$3,000, also to convey to the company the oblong piece of land, one hundred feet wide, located about midway between Genesee (Main) street and Big Tree (Ellicott) road, and extending from a point on what is now Clark Place, back to Bierree's store; also a strip about thirty-five feet wide extending from Genesee street to the main strip known as "Lot 81". It was on this lot the first execution by hanging occurred in the country. The suggestion was accepted and a few years afterwards a new jail was built and a clerk's office was also built in the northeast corner of the triangle. Both were of brick.

This was occupied until the present court house was built in 1842, when the clerk's office was removed to the basement, and again removed to its present location, when it and the surrogate's office were completed in 1873. The circumstances that led to the building of this new court house in 1842 were three-fold: First, a strong effort was being made to remove the county seat to Attica; second, a movement was on foot to divide the county; third, the old court room was too small and inconvenient. The supervisors thought by this stroke of policy they



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could defeat the removal of the county seat and the division of the county, and in this they were successful. The court house cost about seventeen thousand dollars. In 1849 the board of supervisors granted to the village of Batavia the old court house conditioned on its being repaired.

First judges of the court of common pleas prior to the constitution of 1846 were: Joseph Ellicott, 1806; Ezra Platt, 1807-11; John H. Jones, 1812-20; Isaac Wilson, 1821-22; John Z. Ross, 1823-26; William H. Tisdale, 1827-29; Isaac Wilson, 1830-35; William Mitchell, 1836-40; Phineas L. Tracy, 1841-45; Edgar C. Dibble, 1846.

Judges subsequent to 1846 were: Horace U. Soper, 1847-50; Edgar C. Dibble, 1851-54; Joshua L. Brown, 1855-58; Moses Taggart, 1859-66; Charles Henshaw, 1867-70; Randolph Ballard, 1870; Lucius N. Bangs, 1870-81; Myron H. Peck, 1882-88; Safford E. North, 1889-96.

District attorneys from 1818 to the present time have been: Daniel B. Brown, 1818-20; Heman J. Redfield, 1821-28; Levi Rumsey, 1829-33; Daniel H. Chandler, 1834-37; Isaac A. Verplanck, 1838-41; John H. Martindale, 1842-44; Moses Taggart, 1845; Isaac A. Verplanck, 1846; John H. Martindale, 1847-49; Seth Wakeman, 1850-55; George Brown, 1856-58; James M. Willett, 1859-66; William Tyrrell, 1862-64; C. Fitch Bissell, 1865-67; William C. Watson, 1868-73; C. Fitch Bissell, 1874-76; Thomas P. Heddon, 1877-79; Safford E. North, 1880-82; Safford E. North, 1883-85; Frank S. Wood, 1886-92.

Surrogates, with dates of appointment or election were: Jeremiah R. Munson, 1804; Richard Smith, 1805; Andrew A. Ellicott, 1811; Richard Smith, 1812; Andrew A. Ellicott, 1815; Ebenezer Mix, 1821; Harvey Putnam, 1840; Timothy Fitch, 1841; Samuel Willett, 1845.

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### SENECA COUNTY

Upon the organization of Seneca county in 1804, Cornelius Humphrey, Grover Smith and John Sayre were appointed judges and justices of the peace. Jonas Whiting, Jan Van Horn, Asa Smith, and Benajah Boardman were appointed assistant justices. Jared Sanford was appointed surrogate: Silas Halsey, county clerk; and William Smith, sheriff.

Judge Cornelius Humphrey, who served as first judge until 1809 was one of the distinguished men of his day. He was colonel in the revolutionary war, a member of the second provincial congress, and a representative from Dutchess county in the State assembly and senate. He removed to Seneca about 1801, locating in the town of Ulysses, and was representative of the county in the assembly, 1806-1807.

The first court in the county was held in the house of John Seeley, in the town of Ovid, and there court was held almost continuously until May, 1807. In October, 1807, it was proposed to convene the court in the new court house which had been erected in Ovid, but when October arrived the building had not been completed and the court continued to sit at the house of John Seeley until May, 1808. On the first Tuesday of May, 1808, the first court was held in the court house. Judge Cornelius Humphrey presided, and upon the bench with him were Grover Smith, John Sayre and Benjamin Pelton.

The first term of the general sessions was held in Waterloo, May 12, 1818, and was presided over by Justices John Sayre, John Burton and Benjamin Hendricks. Other terms of this court were held in Waterloo until March 29, 1822. On the latter date an act was passed by the legislature which provided that the courts of common pleas, general sessions, circuit, and

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oyer and terminer, should thereafter be held alternately in the court house in Ovid and the court house in the town of Junius.

County judges since 1804, with the years of their election or appointment, have been: Cornelius Humphrey, 1804; Benjamin Pelton, 1809; Oliver C. Comstock, 1812; John King, 1815; John McLean, Jr., 1818; Luther F. Stevens, 1823; Jesse Clark, 1833; J. K. Richardson, 1847; John E. Seeley, 1851; Sterling G. Hadley, 1855; George Franklin, 1859; Josiah T. Miller, 1863; George Franklin, 1867; Gilbert Wilcoxon, 1871; George Franklin, 1877; Peter H. Van Auken, 1883; William C. Hazelton, 1889.

Surrogates until 1846, with the years of their appointment, were: Jared Sanford, 1804; John Sayre, 1811; Jared Sanford, 1813; William Thompson, 1815; Luther F. Stevens, 1819; William Thompson, 1821; Samuel Birdsall, 1827; Jehiel Halsey, 1837; John Morgan, 1843.

District attorneys from 1818 to the present time with the dates of their appointment or election have been: Lemuel W. Ruggles, 1818; Jesse Clark, 1821; John Maynard, 1836; Elisha Foote, Jr., 1837; Joseph Heron, 1843; Samuel Birdsall, 1846; David Heron, 1847; William H. Burton, 1850; Josiah T. Miller, 1850; David Heron, 1853; James K. Richardson, 1856; Addison T. Knox, 1859; Josiah T. Miller, 1859; William C. Hazelton, 1862; Frederick L. Manning, 1865; William C. Hazelton, 1868; Patrick J. Rogers, 1871; William V. Bruyn, 1874; Patrick J. Rogers, 1877; William C. Hazelton, 1880; Corydon Rood, 1883; Francis C. Allen, 1886; George W. Pontius, 1889, and Francis C. Allen, 1892.

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### JEFFERSON COUNTY

An act erecting the counties of Lewis and Jefferson was passed by the legislature, March 28, 1805. The territory comprised in the new county of Jefferson had before that time been part of Oneida county, and the division was accomplished to the accompaniment of the customary disputes and ill-feeling between the residents of different portions of the county which was to be divided.

Nathan Door, David Richards and John Van Der Theusen were appointed commissioners to determine upon the site of the court house and jail. The site chosen in the village of Watertown was in the nature of a compromise, but on the whole it proved to be satisfactory to the people generally. The contract for the combined court house and jail provided for a building of wood, forty by sixty feet, fronting eastward, and this was erected in 1807-1808. It contained a jail on the first story, and the location was a little south of the more pretentious jail building, which subsequently was erected. In January, 1808, the supervisors were empowered "to build a sufficient tower and cupola on the center of said building, and cover the dome of said cupola with tin, and so construct the said tower and cupola that it shall be sufficiently strong and convenient so as to hang a bell and to erect a sphere vane and also a suitable rod to conduct the lightning from said building."

The total cost of this structure was \$4,997, with the fixtures at an estimated cost of \$253. The first jail limits were established in 1807.

"These limits cover a small space around the court house and a part of the public square, and included most of the houses in the village, while between these localities, along the sides of the roads, and sometimes in the center, were paths from four to eight feet wide, with occasional cross-

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ings, so that by carefully observing his route, turning right angles, and keeping most in the strict ranges which the court had established, a man might visit nearly every building in the village, but if the route was by any accident obstructed by a pile of lumber, a pool of mud, or a loaded wagon, he must pass over, or through, or under, or else expose himself to the peril of losing this precarious freedom, by close imprisonment and subjecting his bail to prosecution for the violation of his trust."

These limits were maintained until February 20, 1821, when an act was passed defining a rectangular area around the village as the jail limits. In 1815 the necessity of a substantial clerk's office was recognized, and under the authorization of the legislature a building was erected near the county court house. This was used by the county until 1831, when a new clerk's office was completed. This building stood on the south side of Court street, was of substantial stone construction and for a time, was amply sufficient for the purpose.

The old combined court house and jail which was built in 1807-1808 was damaged by fire in December, 1817, but was temporarily repaired. It was used until February, 1821, when it was entirely destroyed by fire. In the following month an act was passed by the legislature authorizing the erection of two buildings to replace the one which had been burned—one for the court house, and the other for the jail, and under the provisions of this act the buildings which were in use for the next forty years were erected.

The court house was a substantial structure, forty-five by forty-eight feet, but the increase of business coming before the court soon overtaxed these accommodations. In 1858 the grand jury declared the building a public nuisance and measures were taken to erect another in its place. The new structure was

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1. "A History of Jefferson County in the State of New York," by Franklin B. Hough, p. 31.

## LEGAL AND JUDICIAL

placed at the corner of Ossiner and Benedict streets, in Watertown, upon a site donated by several public spirited citizens. It was built at an expense of \$25,000, under the charge of W. H. White, supervising architect, and a supervising committee. It was formally dedicated October 7, 1862, when it was ready for occupancy. The county clerk's records and papers which up to that time had been preserved in the structure on Court street, were removed to the new court house and placed in rooms which had been especially arranged for them.

The court house is a substantial brick building with stone trimmings, two stories high, occupying ground about seventy by one hundred and twenty feet. A handsome tower surmounts its roof, and the building presents a generally attractive appearance, set within a well kept lawn and grounds. In the course of time the necessity for more commodious quarters for court officials and the safety of the records of the county clerk pressed upon attention. After due consideration extending over some two years, a new county building, detached and fire proof, was erected in 1884 at a cost of nearly \$24,000.

After the destruction of the old jail in 1821, county prisoners were confined in the Lewis County jail until the burned structure was replaced. This was done in 1821, and by a resolution adopted by the supervisors solitary cells were provided. However, the jail, like the old court house, at last became insufficient, and not in keeping with the advanced sanitary regulations of the State. The question of re-construction was presented to the board November 29, 1892, and a special committee comprising supervisors Yost, Strough and Arms was authorized to make the needed alterations and repairs, with such additions as were required by law. The work was done in 1893, when the interior of the jail was substantially remodeled, and a new

## HISTORY OF NEW YORK

sheriffs' residence was erected, at a total cost of \$13,480.08, to the end of securing a good substantial jail building, amply sufficient for all present purposes of the county.

The first term of the county court of which there is any record was held on the second Tuesday of May, 1807, in the school house in the town of Watertown. Augustus Sackett, first judge, presided, and the other officers in attendance were: Josiah Bealls, Perley Keyes, judges, and Thomas White, assistant-justice. Samuel Whittlesey was district attorney, and the attorneys who appeared in the court were: Isaac W. Bostwick, Samuel C. Kennedy, Benjamin Shiner, Elisha Camp and John Kirkland. The second term of the court was held at the same place on the second Tuesday of August, 1807, before the same judges. Traditions says, that

"After formal adjournment, the first court, which was held in the school house on the ground now covered by the Universalist church, became a scene of fun and frolic, which has since been seldom equaled. The greater part of the settlers were young or middle aged men. Some indulged in habits of intemperance, the customs of the day did not discountenance practical joking, and athletic games were invariably the accompaniments of all gatherings. Moreover, they had just been organized, and must have business for their courts, else what need of having courts? Should any one evince a disinclination to join in these proceedings, they were accused of "sneakism," and arraigned before a mock tribunal where, guilty or not guilty, the penalty of a quarter was sure to be imposed for the benefit of the crowd.

"Among other charges was one against Esq. H., of Rutland, a man of very sober and candid character, who was charged with stealing. Conscious of innocence, he offered to be searched, when a quantity of dough was found in the pockets of his coat. Thus implicated by circumstances which he could not explain, he was fined. Another was accused of falling asleep and fined a shilling, and another was fined a like sum for smoking in the court room. After paying the penalty he resumed his pipe and was again arraigned, when he entered his plea that the fine was for a pipe full, and which he had not finished, and this afforded a subject of legal argument for discussion that elicited the research and ability of the lawyers present.

## LEGAL AND JUDICIAL

"As the avowed intention was to make business for all the new officers, one was stripped and laid out on a board, loosely covered with cloth, and a coroner sent for, who commenced a bona fide examination, that was interrupted by some one tipping over the board, when the 'subject' of the hoax jumped up and fled. There had not thus far been any business for the sheriff, but this was at length made, by their finding one who had crept into the garret for concealment. He was dragged before their tribunal, where it was decided that his failing was a disease, rather than a crime, and required an enema.

"This 'carnival' was continued for the second time, and although the officers of the court affected to abstain from these frolics, yet judicial dignity offered no exemption from them, and all parties, whether willing or unwilling, were compelled to join. Companies, distinguished by personal peculiarities, were paraded under officers selected for the prominence of their traits, as 'long noses,' etc., while the little short men were organized into a party, and charged with the duty of 'keeping the cats off.' These follies may be considered puerile, but not more so than the annual carnival in some European countries, and their record is interesting from illustrating the customs of the times, when athletic games were fashionable, and men seldom met in numbers without having a regular train."

Judges of the county court have been: Augustus Sackett, 1807; Moss Kent, 1810; Abel Cole, 1818; Egbert Ten Eyck, 1820; Calvin McKnight, 1829; Thomas C. Chittenden, 1840; Calvin Skinner, 1845; Robert Lansing, 1844; William C. Thompson, 1851; Charles D. Wright, 1859; Azariah H. Sawyer, 1867; Charles H. Watts, 1877; John C. McCartin, Henry Purcell, and Edgar O. Emerson.

Special county judges have been: David J. Wager, 1855; Arthur J. Brown, 1862; John R. Emmes, 1865; Irwin F. Ramsdell, 1877.

District attorneys have been: Nathan Williams, Samuel Whittlesey, Amos Benedict, Ela Collins, David W. Bucklin, 1818; Horatio Shumway, 1820; David W. Bucklin, 1821; Rob-

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2. "A History of Jefferson County in the State of New York," by Franklin B. Hough, pp. 36-37.



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ert Lansing, 1826; George C. Sherman, 1833; Dyer N. Burnham, 1840; Joseph Mullin, 1843; Robert Lansing, 1845; Joshua Moore, Jr., 1846; James F. Starbuck, 1850; Delano C. Calvin, 1853; David M. Bennett, 1856; Bradley Winslow, 1859; Lafayette G. Bigelow, 1862; Bradley Winslow, 1865; Pardon C. Williams, 1868; Watson M. Rogers, 1874; Edgar C. Emerson, 1880; Frank H. Peck, Virgil K. Kellogg, George H. Cobb, and Fred B. Pitcher.

Surrogates, with dates of their appointment or election, have been: Benjamin Skinner, 1805; Amasa Trowbridge, 1811; John M. Canfield, 1811; Elisha Camp, 1813; David Perry, 1815; Lyman Munson, 1816; Benjamin Wright, 1820; Lyman Munson, 1821; Benjamin Wright, 1823; John Clarke, 1840; Nathaniel P. Wardwell, 1844; Lysander H. Brown, 1847; James R. A. Perkins, 1851; Milton H. Merwin, 1859; David M. Bennett, 1863; William W. Taggart, 1867; Ross C. Scott, 1877.

### **LEWIS COUNTY**

An act erecting part of the county of Oneida into two separate counties by the names of Jefferson and Lewis was passed by the legislature March 28, 1805. In this act it was provided that commissioners should be appointed to determine upon the county seat and the site for the county buildings. In the meantime it was provided that courts should be held and prisoners should be confined in the county of Oneida, and the first session of the court of common pleas was held in the inn of Chillus Doty, in Martinsburg, December 8, 1805. There were present on this occasion, Daniel Kelley, Jonathan Collins, and Judah Barnes, judges; and Asa Brayton, assistant justice. The court adopted a county seal, drew up a set of rules and established the jail liberties of the county.

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Discussion had already arisen concerning the location of the county buildings, the people of Lowville and those in Martinsburg both being ambitious of the distinction. The influence of General Walter Martin was sufficient to secure the honor for Martinsburg, and in 1810 and 1811 acts were passed by the legislature to this end. The commissioners for building were Benjamin Van Vleck, Daniel Kelley and Jonathan Collins.

The first county courts were held in the new building January 7, 1812, and prisoners who had previously been sent to Rome in Oneida county were thenceforth lodged in the new county jail. These premises were nearly the same as those which were in use a half century later. They consisted of a large wooden building with the court room and jury rooms above and three prisoners' rooms, the sheriff's office, and rooms for the jailer's family on the first floor. Subsequently the front jail room was fitted up for the office of the county judge and surrogate. In 1852 a renewed effort was made to have the county seat removed from Martinsburg to Lowville or New Bremen. In the hope of affecting this change the citizens of Lowville proceeded to erect a fine brick building for a court house. After the failure of the plan, the Lowville structure was used as a town hall.

First judges of the county court prior to the constitution of 1847 were: Daniel Kelley, 1806; Jonathan Collins, 1809; Silas Stow, 1815; Edward Bancroft, 1823; John W. Martin, 1833; Francis Seger, 1843; Edward A. Brown, 1855; Henry E. Turner, 1859; Carlos P. Scovil, 1863; Eliada S. Merrill, 1874.

Surrogates prior to 1846, when the office was united with that of county judge, were: Isaac W. Bostwick, 1805; Chillus Doty, 1815; Barnabas Yale, 1820; Chillus Doty, 1821; Sylvester Miller, 1823; Andrew W. Doig, 1835; William L. Easton, 1840; Daniel S. Bailey, 1844.

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District attorneys of the county have been: Ela Collins, 1819; Charles Dayan, 1840; William Collins, 1845; David M. Bennett, 1847; Eliada S. Merrill, 1850; Henry E. Turner, 1856; Leonard C. Kilham, 1859; Cornelius E. Stephens, 1862; Seymour F. Adams, 1865; Edward A. Brown, 1867; Eliada S. Merrill, 1867; Henry E. Turner, 1870; T. Miller Reed, 1873; Charles S. Mereness, 1879.

### MADISON COUNTY

Madison County was erected from Chenango in 1806, and the village of Sullivan was constituted the county seat, along with Hamilton, which had previously been one of the two county seats of Chenango. Courts were held alternately in the school house in Hamilton village and the school house in Sullivan village, afterwards Lenox.

The first county officers were: Peter Smith, of Petersboro, first judge; Sylvanus Smalley and David Cook, of Sullivan, Edward Green, of Brookfield, and Elisha Payne, of Hamilton, associate judges; Dr. Asa B. Sizer, of Hamilton, county clerk; Jeremiah Whipple, of Cazenovia, sheriff, and Thomas H. Hubbard, of Hamilton, surrogate. Justices appointed for the five towns which composed the county on its organization were: Brookfield,—Oliver Brown, Daniel Maine, Henry Clark, Jr., Jonathan Morgan, Samuel Marsh and Edward Green; Cazenovia,—David Tuthill, Samuel S. Breese, Phineas Southwell, Perry G. Child, Elisha Williams, Daniel Petrie, Williams Powers, and Joshua Hamlin; DeRuyter,—Eli Gage, Hubbard Smith, and Eleazer Hunt; Hamilton,—Joseph Morse, Simeon Gillett, Benjamin Pierce, Erastus Cleveland, Elisha Payne, Amos Maynard, Russell Barker, George Crane, and Winsor Coman; Sul-

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livan,—Gilbert Caswell, Samuel Foster, Walter Beecher, Joseph Frost, Sylvanus Smalley, Peter Smith, David Cook, William Hallock, James Campton, and Joseph Yeaw.

In 1810 Cazenovia was designated as the county seat, and commissioners John Linchlaen and Eliphalet Jackson were appointed to superintend the erection of the court house; the brick building which afterwards became part of the Cazenovia Seminary building was erected, and the first court was held therein January, 1812. Subsequently the county seat was removed to Morrisville in 1817, that town being in a central location. The original court house was then sold to the Methodist Episcopal church and was used as a house of worship until it was converted into a part of the seminary.

The new court house in Morrisville was erected under the supervision of Joseph Morse, Eliphalet Jackson and Elisha Carington, and the first meeting of the court was held in it October 7, 1817. This court house answered the purpose of the county for nearly thirty years, when a new building was put up in 1847 under the supervision of Ellis Morse, Samuel White and Oliver Pool. This building was burned while a court was in session in October, 1865. It was replaced by a two-story wooden structure which was pleasantly situated on the main street, fronting on a small park, and was furnished with the gallery, jury rooms and library and contained a fine court room. To meet the demand for increased accommodations for the business of the court an addition to this building was put up in 1877.

Contiguous to the court house is the jail, which has the appearance of a handsome residence, the front part being occupied by the keeper, and the cells being located in a wing in the rear. This building took the place of the old wooden structure which was erected in 1817. The original jail was built at

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a cost of \$4,523. The new jail building in 1872 cost about \$20,000.

County judges have been: Peter Smith, 1807; Justin Dwinell, 1823; James B. Eldridge, 1833; John B. Yates, 1837; Thomas Barlow, 1843. County judges since the office was made elective have been: James W. Nye, 1847; Sidney T. Holmes, 1851; Joseph H. Mason, 1863; Charles L. Kennedy, 1867; B. Franklin Chapman, 1883; Alfred D. Kennedy, 1883; John E. Smith, 1889, and Michael H. Kiley, 1905.

Surrogates have been: Thomas H. Hubbard, 1806; Asa B. Sizer, 1816; John G. Stower, 1821; Otis P. Granger, 1827; James B. Eldridge, 1840, and James W. Nye, 1844.

On its organization, Madison county belonged to the Sixth district, which then included Chenango, Herkimer, Lewis, Oneida, Otsego and Jefferson. In 1809 it was united with Cayuga, Chenango, Onondaga and Cortland in the formation of the Ninth district, and remained in that connection until 1818. The first person to fill the office of district attorney from Madison county was Daniel Kellogg, of Sullivan, who was appointed in February, 1809. His successors have been: Thomas H. Hubbard, 1816 and 1818; William K. Fuller, 1821; Philo Gridley, 1829; Justin Dwinell, 1837; Charles Mason, 1845; Henry C. Goodwin, 1847; William E. Lansing, 1850; David J. Mitchell, 1853; Asahel C. Stone, 1856; Albert N. Sheldon, 1859; Delos W. Cameron, 1862; Lambert B. Kern, 1865; Alexander Cramphin, 1868; Gerritt A. Forbes, 1871; Sherman B. Daboll, 1874; John E. Smith, 1877; Henry Barclay, 1880; John E. Smith, 1880; Edgar N. Wilson, 1883; Henry M. Aylesworth, 1899; Joseph D. Senn, 1892; Michael H. Kiley, 1895, and E. Watts Cushman, 1904.

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### BROOME COUNTY

The area of land which now constitutes the county of Broome was formerly embraced in the county of Tryon.

Tryon county was erected March 12, 1772, by an act passed by the governor, the council and the general assembly. The main reason given for the erection of the new county was the inconvenience to the inhabitants by reason of the great distance to the courts and gaol at Albany, the act reciting that many people, as county officers, jurymen, suitors and witnesses, were obliged to travel nearly two hundred miles.

Tryon county was formed from Albany county, and embraced all the lands of the New York colony west of a certain line, generally north and south, and which line Judge William W. Campbell, in his "Annals of Tryon County", says passed through the center of Schoharie county as then (1831) constituted. The court house and gaol of Tryon county was fixed at Johnstown. By an act passed April 2nd, 1784, the name of Tryon county was changed to Montgomery.

Tioga county was erected out of Montgomery county by the act of February 16, 1791, its boundaries including, generally, the present counties of Broome, Chemung and Tioga, and a small section now in Chenango county.

This act of February 16, 1791, provided that two terms of the common pleas should be held each year, one the second Tuesday of January and one the fourth Tuesday of June, and to be so held at the house of John Hornwell, in the town of Chemung. This act also provided that justices of the supreme court need not hold circuit courts yearly, (as the general statutes required) unless in their judgment necessary and proper.

An act was passed February 18, 1792, for the erection of a

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court house and gaol east of Nanticoke creek, and until such court house and gaol were erected, the court of common pleas and general sessions to be held at the house of Nehemiah Spalding, situate near Nanticoke creek.

On January 14, 1793, the legislature, by Chapter 13, provided that the court of common pleas and general sessions of the peace of Tioga county should be held on the first Tuesday of February, May, and October, each year, alternately, at the house of Joshua Whitney, Esquire, at Chenango, in the town of Union, and at buildings "now erecting for a gaol at Newtown Point in the town of Chenango." This law also enacted that the gaol at Newtown should be the gaol for Tioga county. The act, Chapter 99, Laws of 1801, made it lawful to hold the court of common pleas and general sessions of the peace at the court house "about to be erected" at Chenango Point, instead of the residence of Joshua Whitney.

Broome county was erected out of Tioga county by the act, Chapter 89, passed March 28, 1806, and to be composed of the towns of Tioga, Union, Lisle, and Chenango. The act provided that the court of common pleas should be held three times each year, and in the court house then erected in the town of Chenango. The town of Chenango embraced all of Broome county east of the Chenango river. The act also provided that one term of the supreme court should be held each year in the county. It also enacted that the county clerk's office should be kept at Chenango Point, now known as Binghamton. Broome county retained its original area till March 22, 1822, when the towns of Tioga and Berkshire were annexed to Tioga county.

The first courts in Tioga county were held in private dwellings. The first court house was built at New Town Point, (now

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Elmira), about 1795. Tioga was then a shire county, with courts held alternately at New Town and Chenango.

The first court house within the area of Broome county was built in 1802. It was located on the north side of Court street, a little west of the present north-west corner of Court and Chenango streets. This structure was twenty-four by thirty-six feet in size. A log jail with two cells was attached to it. The jailer lived on the first floor of the court house, and courts were held on the second floor.

Prior to the formation of Broome county, General William Bingham, of Philadelphia, the proprietor of the lands on which Binghamton was then located, had promised to make a gift to the county, when created, of a suitable site for a court house and other county buildings. He died in England in 1804, and so had no opportunity to make the conveyance. After Broome county was organized the executors of his will conveyed to the county "Court House Hill", so called, containing four and one-half acres. This commanding and beautiful site has ever since been retained by the county, and it has added to it by purchase of a triangular parcel on the southeast side, so that the court house grounds now include all the lands in the square bounded by Court, Exchange, Hawley, and Collier streets.

Soon after Broome county was organized, the first court house was moved across Court street to the northwest corner of the court house grounds. In 1829 a new court house was built and located a little east of the old court house and about midway between what are now Collier and Exchange streets. This building stood near Court street, and its entrance was by a flight of stone steps on the west. The basement was used for prisoners' cells, the first floor was occupied by the jailer, and court and jury rooms were on the second floor. This court



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house was occupied until 1858, when a new court house was completed. This latter court house was located on the summit of the hill, and near the center of the court house grounds. It faced north, as does the present court house, and was reputed to be one of the most beautiful court houses in the United States. Wings on the east and west ends were added in the year 1890. This court house was destroyed by fire in December, 1896, and on its site was erected, in 1897, the present structure. Court House Hill has been cut down many times since 1806, but it is still a commanding site.

The first clerk's office was built in 1815 and was a two-story structure located on the south side of Court street, and about midway between the present Washington and State streets. In 1829 a new clerk's office was built of brick, one story high, and was fire proof. It was square, red, and of neat appearance. It was located just west of the present court house. The increase of the records of the county and the court documents eventually outgrew its capacity, and in 1872-1873 the county erected the present clerk's office, a few feet from and south of the court house.

The first jails occupied a portion of the different court houses, but on the building of the new court house in 1858, a new and separate building of brick was erected the same year on the southeast corner of the then court house grounds. This remained until the present jail was built in 1896.

When the different counties of Tryon (Montgomery), Tioga, and Broome were formed, there still existed the supreme court of the state, the justices of which, four in number, held circuits and courts of oyer and terminer throughout the State, and at least once a year in each county, unless (act of 1791) in the judgment of the justices, it was deemed unnecessary.

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Also, when these counties were successively formed, the old court of common pleas and general gaol delivery was in existence. The court of common pleas was constituted by a first judge and such associate judges as were appointed for each county. The appointment of the first judge and associate judges was made by the State council of appointment, and they held office for the term of three years, except the first judge, who held office during life or good behavior, but was retired on reaching the age limit of sixty years. There was no limit to the number of associate judges, but by custom they did not exceed five in each county.

After the adoption of the new constitution in 1822, the number of county judges, including the first judge, was limited to five, and their terms were all limited to five years. They were appointed by the governor with the consent of the senate. This continued until the adoption of the constitution of 1846. This constitution abolished the court of common pleas and created the county court in its stead, but with a very much narrower jurisdiction. The county judges were elected by the people, (as were all judicial officers), and their term of office was six years.

The person who was appointed first judge of Tioga county was Abram Miller. He was appointed February 17, 1791, and held the office till March 27, 1798. He was succeeded by John Patterson, of Lisle, who was appointed March 27, 1798, and held the office as first judge of the old county of Tioga till Broome county was set off from Tioga. As Judge Patterson lived in the territory of Broome, he ceased to be a judge of Tioga county and was appointed first judge of Broome county, April 2, 1806. He held the office till March 2, 1809, when he was succeeded by Daniel Hudson. Mr. Hudson removed from the

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county, and on May 31, 1809, James Stoddard was appointed. The successors of Judge Stoddard were as follows: Stephen Mack, November 9, 1812; John R. Drake, April 8, 1815; Tracey Robinson, January 23, 1823; and William Seymour, April 12, 1833.

The constitution of 1846 abolished the court of common pleas and substituted the county court, with a more modified jurisdiction, the county judge being made elective. Since 1846 the county judges have been as follows: Edward C. Kattell, took office June, 1847; John R. Dickinson, elected November, 1851; Horace S. Griswold, elected November, 1855, died in office August 9, 1870, and was succeeded by Benjamin N. Loomis, appointed August 18, 1870; William B. Edwards, elected November, 1870, re-elected 1876, and re-elected 1882; Taylor L. Arms, elected November, 1888, and re-elected November, 1894; and Robert S. Parsons, elected November, 1900, and re-elected November, 1906.

Since 1846, the duties of the office of surrogate in Broome county have been discharged by the county judges. Prior to that the surrogate was a separate judicial officer. That office was filled as follows: By Eleazer Dana, April 3, 1806, to February 12, 1821; Peter Robinson, from February 12, 1821, to March 27, 1823; George Park, March 27, 1823, to February 26, 1836; Joseph K. Rugg, from February 26, 1836, to February 19, 1840; Hamilton Collier, from February 19, 1840, to February 19, 1844; and John R. Dickinson, from February 19, 1844, to June, 1847.

Under the constitution of 1846 and the subsequent acts of the legislature under it, Broome county was made a part of the Sixth judicial district, and has since so remained. The first supreme court justices of the Sixth district were: William H.

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Shankland, Hiram Gray, Charles Mason, and Eben Morehouse, each of whom took office June 7, 1847. As their successors in office are recorded in the State history, their names and dates of taking and holding office are not given here.

The first term of the supreme court, including the oyer and terminer and general gaol delivery, after the formation of Tioga county, was held July 20, 1792. It was held in the house of Nehemiah Spalding, described as "near" Nanticoke, in the county of Tioga. Mr. Spalding's dwelling was on the north side of the Susquehanna river, on what is now known as the main road from Binghamton to Union, and about four miles west of the city of Binghamton, measuring from the court house. This term of court was presided over by John Lansing, Jr., justice of the supreme court, and he had for his associates in the criminal portion of the court, County Judges Jonathan Fitch, Joshua Whitney, John Miller and Silas Hutchinson. The second term of the same court was held at the same place, June 11, 1793, and was presided over by John Sloss Hobart, justice of the supreme court. The third term was held July 10, 1794, at the house of Dunn & Hornell, in the town of New Town, (now the city of Elmira), and was attended by Egbert Benson, justice of the supreme court. After 1794 these courts were held alternately at New Town and Chenango Point (now Binghamton), one court being held each year. After 1794 these courts, when held at Chenango, met at the home of Joshua Whitney, located on the west side of the Chenango river, about two miles north of the junction of the Chenango and Susquehanna rivers, until 1801. They were then held in the house of General Joshua Whitney, at Chenango Point, till the court house was built in 1802. Since 1802, the courts have been held at the court house.

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The terms of the common pleas and general sessions of the peace were held, in that part of Tioga county now embraced in Broome county, at the residence of Joshua Whitney (senior) and General Joshua Whitney, till the court house was built in 1802, since which time those courts have sat in the court house.

The first term of the circuit court and oyer and terminer, after the erection of Broome county, was held May 29, 1807, and was presided over by Daniel D. Tompkins, justice of the Supreme Court, and Amos Patterson, George Harper and Mason Wattles were associated with him as judges of Broome county. Mr. Tompkins was afterwards governor of the State. The next term was held May 27, 1808, Hon. Joseph C. Yates presiding. He also was later governor of the State. The next term was September 7, 1809, Hon. Smith Thompson presiding, and the next June 22, 1810, with the same justice. The next term was June 24, 1811, held by James Kent, who was later chancellor of the State, and who also was the author of Kent's "Treatise."

The courts of common pleas and general sessions of the peace were held semi-annually in Broome county from 1806, till the common pleas was superceded by the county court in 1847. It was presided over by the first judge and two or more associate judges of the county.

In giving a history of the bar of Broome county it seemed desirable to arrange the list of lawyers by decades.

Prior to the year 1800, there seems to be no record of an attorney residing within the area of what is now Broome county. From 1800 to 1810 a number of lawyers located in what is now the city of Binghamton. The first was Mason Whiting, who came to Binghamton (then named Chenango Point) in 1800. He was from Great Barrington, Massachusetts, and had practiced

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law there. He continued in active practice until his death in 1849. He held various public offices, among which were, member of assembly (1816), district attorney in 1823, and again from 1831 to 1837.

In 1801 Daniel LeRoy began the practice of law in Binghamton, and so continued until 1817, when he removed to the west. He took a prominent part in the public life, and was eminent in his profession.

Also, in 1801, Balthazer DeHart, and his brother James DeHart, came to Binghamton and engaged in the law practice.

William Stuart came to Binghamton in 1803, and continued practice till the close of his long life. Before moving to Binghamton he had resided at Auburn, New York, and had been assistant attorney general (district attorney), for the Sixth (State) district, embracing the counties of Onondaga, Steuben, and Tioga as then (1796) constituted.

In 1804 William Low practiced for a short time at Binghamton, and then removed to Homer, New York. Also Sherman Page located at Binghamton, but after a year or two removed to Unadilla.

In 1806 William Seymour was admitted to the bar, but soon removed to Windsor, in Broome county, where he practiced till 1833. In 1833 he was appointed first judge of Broome county, when he returned to Binghamton, and remained until his death in 1848. He held the office of first judge till 1847, when the court of common pleas was superceded by the county court. William Seymour was the first lawyer in Broome county to hold the office of first judge.

Eleazer Dana began the practice of law at Binghamton in 1806, and was the attorney for the plaintiff in the first case tried in Broome county after its organization. This case was Caldwell

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*et al. vs.* Hollenbeck, and was tried May 29, 1807, Mr. Dana practiced law for a number of years. He held the office of surrogate from April 3, 1806, till February 12, 1821, and was also member of assembly in 1808-9.

In 1807 Robert Monell began the practice of law, and was an active business man as well as lawyer. He was postmaster for a time. In 1811 he moved to Greene, New York, which he made his future residence. He was a member of congress in 1819-21, and also in 1829-31. February 11, 1831, he received the appointment of circuit judge and held the office till the new constitution of 1846 was adopted. He presided at every term of the circuit court and court of oyer and terminer held in Broome county from May 23, 1831, to April 28, 1845, inclusive.

Daniel Rogers began the law practice in Binghamton in 1808. He was a partner of Daniel LeRoy for a time, but soon moved to New York, where he published the *City Hall Record*.

In 1809 John Avery became a member of the Broome county bar and practiced for a few years. He was a member of assembly in 1814.

John A. Collier came to Binghamton in 1809, and immediately entered upon the practice of law, which he continued till his death, March 23, 1873, except the last few years of his life, when the infirmities of age prevented his activity. From the first he took a strong position, and was esteemed one of the leaders of the bar during all his life, his practice extending over a large portion of the State. For a time he was partner of Daniel LeRoy. Mr. Collier held the office of district attorney from June 11, 1818, till February 25, 1822. He was a member of congress in 1831 to 1833, and was State comptroller in 1841.

1810-1820.—In 1811, George Park became a member of the bar. He continued in the practice at Binghamton all his life

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excepting the few years before his death in 1876. He was for very many years a justice of the peace. He was also surrogate from March 27, 1823, to February 12, 1836.

Thomas G. Waterman came to Binghamton in 1813, from Salisbury, Connecticut, and took a prominent position at the bar. He continued in active practice for about twenty years, after which he gave the most of his attention to his extensive real estate and lumbering interests. He was district attorney in 1822, member of assembly in 1825, and state senator for four years, 1829-1833. He was the author of "The Justice's Manual," a treatise on justice court practice, which went through a number of editions. He died in 1862.

In 1819, Peter Robinson was admitted to the bar, and at once became one of the leading trial lawyers, and so continued till his death in 1841. He was also eminent as a counsellor, and was in every way a strong personality and left a large impress on the public life. He was surrogate from February 12, 1821, to March 27, 1823, and district attorney from May 20, 1823, to November 30, 1831. He was also member of assembly for six years, 1826 to 1831 inclusive, and was speaker of the assembly in 1829.

1820-1830.—William M. Waterman, a brother of Thomas G. Waterman, was admitted to practice in 1821 and attended to the details of the profession to some extent, but his time was mostly occupied by his duties of a magistrate. He remained a resident of Binghamton till his death in 1877.

Hamilton Collier, a brother of John A. Collier, was admitted to the bar in 1829, and continued in practice about twenty years, when he removed to Cincinnati, Ohio, and took a position on one of the leading newspapers of that city. He held the office of district attorney of Broome county from December 1, 1837, to



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February 12, 1842, and was surrogate from February 19, 1840, to February 19, 1844.

1830-1840.—The additions to the bar in this decade were Joseph S. Bosworth, 1830; Daniel S. Dickinson and William M. Patterson, 1831; Ausburn Birdsall, Laurel O. Belden and Joseph K. Rugg, 1836; Giles W. Hotchkin, 1837; Mayhew McDonald, 1838; Luther Badger and Benjamin N. Loomis, 1839.

Mr. Bosworth continued in practice at Binghamton for about eight years, when he removed to New York. He was one of the justices of the superior court, and in 1858 was selected as the chief judge of that court. He also published the reports of that court known as "Bosworth's Reports."

Mr. Patterson continued in practice from his accession to the bar till his death about 1850, and was an active trial lawyer.

Daniel S. Dickinson, from the time he came to Binghamton till the time of his death, in April, 1866, continued in active practice. His reputation became national. While a delegate to the Democratic national convention in 1852, he was offered the nomination for president, but refused on the ground that as he was sent as a delegate for General Cass he could not in honor accept the nomination. In 1864 he was prominently mentioned for vice-president on the Lincoln ticket, and was strongly supported in the national convention; but a desire to conciliate the Border States and hold their allegiance to the Union induced the selection of Andrew Johnson.

Mr. Dickinson was a State senator from 1837 to 1841, inclusive, and lieutenant governor from January 1, 1842 to January 1, 1844. He was United States senator from November 30, 1844, to March 4, 1851, he was attorney general of the State in the years 1862 and 1863. April 10, 1865, he was appointed by President Lincoln attorney for the Southern district of New

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York, and held that position at the time of his death. As an orator he stood among the first in the nation.

Mr. Birdsall was an active practitioner for many years, but gave much attention to public matters. He was district attorney from February, 1842, to June, 1847, and member of congress in 1847 and 1848. From 1858 to 1861 he was surveyor of the port of New York. Mr. Birdsall died in July, 1906.

Mr. Rugg was surrogate from February 12, 1836, to February 19, 1840. Later he removed to Michigan.

Giles W. Hotchkiss, from his admission to the bar in 1837 to his death in July, 1878, was a leading lawyer, and one of Broome county's most public spirited and prominent citizens. For many years he was one of the most powerful trial lawyers in the State. He was a member of congress from March, 1863, to March 4, 1867, and was one of President Lincoln's most intimate and trusted advisers. He was also member of congress in 1869-1871.

Luther Badger practiced at Harpersville. He was district attorney from June, 1847, to November, 1849. He died in 1867.

Mr. Loomis remained in active practice down to his death in 1898, quitting his office only a day or two before he died. He held the public confidence during all of his long life. For many years he acted as magistrate, and was county judge from August 18, 1870, to January 1, 1871. He was also mayor of the city of Binghamton in 1873.

1840-1850.—The following were added to the list of the members of the bar in this decade. John Clapp (from Chenango county); Edward C. Kattell, and Solomon Judd, 1841; James LaGrange, 1842; John R. Dickinson, Jacob Morris, and Horace S. Griswold, 1842; George Bartlett, 1843; James H. Collier and Robert B. Monell, 1844; Selah Squares and William Ir-

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vine, 1845; George Bartlett, Charles H. Hunt, William H. Patterson, George A. Northrup, Alexander McDowell and Lewis Seymour, 1846; Thomas G. Waterman, Philo B. Stillson, Phineas B. Thompkins and Hallam Eldridge, 1847; Solomn Judd and Corydon Tyler, 1848; Francis B. Smith, 1849.

Messrs. Squares and Irvine continued in practice till about 1853, when they each removed from the county. Solomon Judd remained in steady practice till his death in 1885, as did Mr. Morris, who died June 9, 1857. Mr. Morris was district attorney from November 28, 1849, till January 1, 1854.

John R. Dickinson was a brother of Daniel S. Dickinson. He filled the office of surrogate from February, 1844, to June, 1847, and was county judge from January 1, 1852, to January 1, 1856. About 1862 he removed to Chicago, Illinois.

Mr. Griswold was a highly esteemed lawyer and citizen, holding many positions of trust. He was county judge from January 1, 1856, till his death, August 9, 1870.

Francis B. Smith lived and practiced at Union until his death, January 25, 1885. He was district attorney from January 1, 1854 to January 1, 1857, and was a member of assembly in 1863 and again in 1882.

Mr. Collier was a son of John A. Collier, and continued in practice till he left Binghamton for California in 1850, and died on the Isthmus of Panama on his way out.

Mr. Patterson was a son of William M. Patterson. He moved to California about 1849 or 1850.

Mr. Bartlett became a leading member of the bar, and was esteemed a very strong trial lawyer. He was member of assembly in 1862, and during the civil war acted as agent for Broome county in obtaining volunteers for the Union service. He died in April, 1870.

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Mr. Waterman gave little attention to the practice of law, but devoted himself to the writing of treatises on law, and the preparation of notes for editors of text books. His works are on the shelves of nearly all law libraries.

Mr. Northrup was district attorney from January 1, 1856, till his death in August, 1862.

Mr. McDowell practiced at Lisle, New York, all his life, till near its close in 1894.

Mr. Stillson was an active practitioner in Binghamton till the summer of 1862, when he entered the Union service as Major of the 109th New York Volunteers. At the close of the war he took up his residence in Washington, D. C.

Lewis Seymour, in 1847, the year after his admission to the bar, became a partner of Giles W. Hotchkiss. The firm of Hotchkiss & Seymour became known throughout the State as leading at the bar. The firm continued till March, 1863, when Mr. Hotchkiss took up his duties as a member of congress. From that time till his death, January 4, 1873, Mr. Seymour practiced by himself and at once became the recognized head of the bar of the county, which position he always retained. He refused all offers of public position, and devoted all his time to his profession.

1850-1860.—The following persons joined the bar of Broome county in this decade.

Thomas D. Wright, William Barrett, Charles S. Hall, 1851; William B. Edwards, Franklin A. Durkee, George J. Spencer, Edward Tompkins and A. G. Stillson, 1853; Dan S. Richards, 1854; Alexander E. Andrews and Peter W. Hopkins, 1855; Celora E. Martin, 1857; Orlow W. Chapman, Gilman L. Sessions, Benajah S. Curran and Alexander Cummings, 1858.

Mr. Wright practiced till his death in 1864, was a brilliant lawyer, and took high rank as an orator. He was a partner of

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D. S. Dickinson in the firm of Dickinson & Wright, one of the best known in Southern New York.

Mr. Hall held many offices of trust. He was village attorney for years after his admission to the bar. In 1856 he was appointed United States Commissioner, and held that office till his death in March, 1910.

Mr. Edwards was county judge from January 1, 1871, till January 1, 1889. He was held in very high esteem as a lawyer, a citizen and a judge. He died November 23, 1893.

Mr. Spencer entered the Union army in 1862, and after the close of the war moved west. Mr. Barrett died in 1874.

Mr. Tompkins was active as a business man and a lawyer from his admission to the bar till his removal to California about 1860. Mr. Richards was active in practice, and a leading lawyer all his life. He died in 1904.

Mr. Stillson began an active practice and apparently had a successful career before him. But his life was cut short by the accidental discharge of his gun while hunting. This occurred soon after he began practice.

Mr. Hopkins began practice in Union, but removed to Binghamton about 1868. In 1862 he entered the Union service as adjutant of the 109th New York Volunteers. He was district attorney from January 6, 1868, till January 1, 1875. He was elected State senator in November, 1877, and died while still in office February 7, 1879.

Mr. Andrews' practice was that of an office lawyer, which he continued till his death in 1908. He was member of Assembly in 1878 and again in 1880. He was for many years the city recorder.

Judge Martin was justice of the Supreme Court from May, 1877, to January, 1896, and his record as associate judge of the

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court of appeals from January 1, 1896, to his retirement on account of age, December 31, 1904, is a matter of too general knowledge to be recapitulated here. Before his elevation to the bench he was a leader at the bar. He died September 10, 1909.

Mr. Chapman, known as the "silver tongued orator," was, from his entering upon practice, a strong and very marked member of the bar. His ability, his superb presence, his pleasing address, and his oratorical powers, all united to make him a leader at the bar and in the community. He was district attorney from September 4, 1862, to January 1, 1868, State senator for four years (1868-1872), and State superintendent of insurance from November 22, 1872, to January 31, 1876.

May 29, 1889, Mr. Chapman was appointed solicitor general of the United States by President Harrison, and died at Washington, while still holding that office, June 19, 1890.

Mr. Sessions continued in practice until his death in 1900. He was esteemed one of the strongest members of the bar. He refused all public offices and devoted himself wholly to his profession.

Mr. Cummings began practice at Deposit, but moved to Binghamton about 1877. He was considered as one of the best lawyers and had a large clientage, and continued active in his work till his death in 1900.

Mr. Curran devoted himself to office work and surrogate's practice, and was very successful in his profession. He held a number of public offices, among which was mayor of the city of Binghamton in 1891-1892. Mr. Curran died in 1907.

Mr. Durkee was a magistrate during most of his active life. He died in November, 1881.

1860-1870.—The accessions to the bar in the period from 1860-1870, were as follows: Edwin C. Moody, J. Ancrum Win-

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slow and John T. Mygatt, 1861; Frank Loomis, Stephen A. Walker and Edward K. Clark, 1862; Barna R. Johnson (from Downsville) George Whitney, 1863; Charles M. Dickinson and Joseph M. Johnson, 1865; Benjamin F. Smith, 1866; George Becker, Theodore F. McDonald, Stephen C. Millard, 1867; William L. Griswold, William H. Scovil, Neri Pine, 1868; and Edward M. Fitzgerald, 1869.

All of these entered upon the practice at Binghamton. But Mr. Mygatt, Mr. Loomis, Mr. Walker, and Mr. McDonald later removed to New York. Mr. Loomis became general counsel for the New York Central & Hudson River railroad. Mr. Walker became prominent as a lawyer, and was United States attorney for the Southern District of New York under President Cleveland's first administration. For many years Mr. Walker was president of the New York board of education.

Mr. Armstrong was recorder of the city of Binghamton for some years, and later moved west. Mr. McDonald was district attorney of Broome county from January 1, 1875, to January 1, 1881.

Mr. Whitney, Mr. Winslow, Mr. Smith, Mr. Pine, Mr. Scovil, Mr. Barna Johnson and Mr. Griswold remained in practice till ended by death, Mr. Whitney and Mr. Fitzgerald dying in 1899, Mr. Winslow in 1892, Mr. Smith in 1901, Mr. Pine in 1891, Mr. Scovil in 1890, Mr. Griswold in 1901, Mr. Barna R. Johnson in 1908.

Mr. Dickinson, about 1878, left the practice to take up journalism, and since that time has conducted the *Binghamton Republican*. For some years he occupied the position of counsel general for the United States in Turkey.

Mr. Moody began practice at Union, but a few years since removed to Binghamton. He has held many public offices, and

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among them member of assembly (1877), and county attorney in 1907, 1908 and 1909. Mr. Millard was member of congress for two terms, 1883-1887.

1870-1880.—Those coming to the bar within these ten years were: Newell D. Whitney, William J. Ludden, William H. Hecox (from Buffalo), Edmund O'Connor (from Little Falls), 1870; George W. Penrie, Alexander D. Wales, William A. McKinney and Jerome DeWitt, 1871; Charles W. Loomis, 1872; William M. Crosby, Jr., 1873; George F. Lyon, David H. Carver, Frank Stewart, and William Trebby, Jr., 1875; M. Fillmore Brown, Willis D. Edmister, Walter M. Hand, Marvin Caniff and Charles F. Tupper, 1876; Asahel W. Cummings, 1877; Francis W. Downs, 1878; Albert Hotchkiss and Taylor L. Arms, 1879. Mr. Whitney died in 1871, Mr. Canniff in 1891, Mr. Hecox in 1891, Mr. Penrie in 1892, Mr. O'Connor in 1898, Mr. Crosby in 1892, Mr. Carver in 1908, Mr. Hand in 1906, Mr. Downs in 1905, and Mr. Arms in 1908. All of these continued in active practice till death stopped their labors.

Mr. Downs was for many years city recorder. Mr. O'Connor was State senator for six years (1890-1896), and was esteemed as an able lawyer and a fine orator. Mr. Carver was district attorney in 1881-1883, and was an able and successful lawyer. Mr. Arms was county judge from January 1, 1889, to January 1, 1901, and was later assistant United States attorney for the Northern district of New York. Mr. Ludden removed to Troy, New York, about 1877, and Mr. Brown to Buffalo, about 1889. Mr. Lyon was elected a justice of the supreme court in November, 1895, and still holds that office.

1880-1890.—The following joined the Broome county bar in this decade: George B. Curtiss, Augustus Babcock, Harmon J. Kneeland, Winthrop D. Painter, and David Murray, 1880; Thom-



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as B. Merchant, Clifford S. Arms (from Unadilla), Henry L. Beach, Fremont F. Williams, 1882; Israel T. Deyo, A. Perry Fish, F. Newell Gilbert, (from Stamford, N. Y.), and Almiron M. Sperry, 1883; Eldon R. Carver, Arthur W. T. Back, Charles H. Hitchcock, Alan M. North and Frederic W. Jenkins, 1884; S. Mack Smith, 1885; Henry Welsh and William J. Welsh from Hancock, 1886; Robert B. Richards, 1887; H. Fred Lyons, Henry C. Olmstead, James H. Roberts, Charles F. O'Brien and Watson E. Roberts, 1888; John J. Irving, Leslie M. Merchant, John A. Brown, Lewis Seymour, William F. Van Cleve, Harry C. Perkins, and Cortland A. Wilber, 1889.

Mr. Henry Welsh died in 1890. Mr. Arms in 1896, Mr. O'Brien in 1901, A. Perry Fish in 1908, and Mr. Back in 1909.

Mr. Curtiss was district attorney from January 1, 1884, to January 1, 1890, and now holds the office of United States attorney for the Northern district of New York. Mr. Painter was district attorney from January 1, 1890, to January 1, 1896. Mr. Deyo was member of assembly for four terms, (1889-1893). Mr. Olmstead for some years held the office of recorder, and later that of city judge. Mr. James H. Roberts was city recorder, and now is the postmaster of Binghamton. Mr. Smith and Mr. Watson E. Roberts have each held the office of city recorder. Mr. Perkins was district attorney from January 1, 1896, to January 1, 1902. He is now serving his third consecutive term as member of assembly.

1890-1900.—In this ten years the following became members of the bar: William Wirt Newell and Robert S. Parsons, 1890; Harvey D. Hinman, Elmore G. Page, and Albert S. Barnes, 1891; James T. Rogers (from Owego), and Rollin W. Meeker, 1892; Roger P. Clark, Dennis Keefe and Frank M. Hays, 1893; Harry C. Walker and Maurice E. Page, 1894; Walter S. Flint,

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Frederick W. Welsh and Harry A. Yetter, 1895; Burr W. Mosher, Thomas J. Mangan and Archibald Howard, 1896; Royal A. Gunnison, Thomas J. Keenan, Urbane C. Lyons and Frank Mangan, 1897; Benajah S. Curran, Jr., Ralph D. Smith, Albert R. Humphrey, William H. Riley, Harry J. Hennessey, A. J. McCrary (from Keokuk, Iowa), and Theodore R. Tuthill (from Owego), 1898; and Thomas B. Kattell and William W. Farley, 1899.

Mr. Flint, after practicing a few years, removed to Greene, New York. Mr. Gunnison, after acting as referee in bankruptcy for a time, received the appointment of judge in Alaska, and removed to Juneau in 1904. Mr. Parsons was elected county judge in November, 1900, and still holds that office. Mr. Hinman is now in his second term as State senator. Mr. Rogers was assemblyman for eight terms (1899-1907). Mr. Clark was elected district attorney in November, 1901, and held the office till January 1, 1909, when he resigned to take the position of a deputy attorney general.

1900-1910.—The bar was increased by the addition of sixty-six members in this ten years, including the removal of Jeremiah S. Gross, from Owego (1904). The remaining sixty-five are young men who show ability, industry, skill and perseverance and give promise in each instance of attaining a good standing in their profession. Their names are found in the court calendars and in the legal directories, and space will not permit the list being given here.

Owing to its central location in the county, Binghamton has been the home of most of the members of the bar, but other business centers had their share of attorneys.

Deposit, located partly in Broome and partly in Delaware counties, has always had a strong array of lawyers, some residing in the Delaware portion and some in Broome. Asher Moses was

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in practice about 1835, and so remained till his death at the age of about eighty. He had for his partner, after about 1860, Judge L. T. Freeman. Nelson K. Wheeler, with Reuben H. Root as partner, practiced for some years, Mr. Wheeler moving to New York about 1864, and Mr. Root to Binghamton about 1868. Truman H. Wheeler was also prominent in the profession, and was named for judge of the court of conciliation at one time. This court was proposed to avoid litigation, but it did not prove a practicable experiment and no money was appropriated to establish the court. Taylor More and his son Arthur were residents of Delaware county, at Deposit. Alexander Cummings was long in practice at Deposit before he removed to Binghamton. E. B. Cummings, C. E. Scott, J. B. Wade and C. T. Alverson now represent the bar at Deposit. Mr. Arthur F. Curtis has recently removed to New York.

Windsor has always had attorneys of excellent standing in the profession. Judge William Seymour, before mentioned, located there as early as 1808. F. G. Wheeler began the practice there in the thirties, and continued till his death in 1880. In middle age he became blind, but always remained at work, making use of an assistant. Hector S. Williams and William H. Bushnell are now the practicing lawyers at Windsor.

At Harpursville, Luther Badger once practiced, as has been before stated. Mr. H. S. Williams, now of Windsor, was located at Harpursville for a number of years. Mr. Joseph D. Comstock has long been located at Centervillage, near Harpursville.

Lisle has had, as members of its bar, Alexander McDowell and William B. Edwards, both of whom have before been mentioned. E. S. Matthewson also practiced at Lisle. At present Milo C. Page is the attorney in that village.

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Whitney Point has had many able lawyers, among whom were Judge Celora E. Martin, Ransom Howland, Willis D. Edmister and John P. Wheeler. At present David L. Maxfield and Edmund B. Jenks are the attorneys residing at that place.

Union had Francis B. Smith and Edwin C. Moody as its leading lawyers for many years, both of whom have been mentioned. At present Thomas A. MacClary and Albert R. Humphrey are the practicing attorneys.

At Lestershire, which adjoins Binghamton on the west, Herman D. Walter and William Wheeler are the resident lawyers.

At Chenango Forks, W. J. Annas is the practicing attorney.

All persons take an interest in the characteristics of men who have acquired prominence in their profession. Space can be given here for only a few remembrances of the Broome county bar.

John A. Collier, who in his mature years was practicing almost throughout the entire State, was a little below the average in height, but was very strongly built. His large head was carried slightly to one side. He was cool, careful, and sturdy, and held determinedly a strong course from the beginning to the end of a trial or an argument.

Daniel S. Dickinson always presented a fine presence. His hair became very white while he was still a young man, a factor in commanding consideration for his utterances. He was of medium height, but his form was rounded out and in excellent proportions. His voice was very loud and resonant, enabling him to make himself plainly heard in the very largest open air meetings. He was sought on all occasions at home as a public speaker on any topic of popular importance. He was in demand as a public speaker throughout this and other states and he was held in high reputation as a national orator.

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He had been a very active and ardent Democrat till the civil war broke out, his affiliations with the leading politicians of the South being so close that he was even cited as "sighing for a southern plantation;" but when the war began he threw all politics aside. He at once went to New York City, and, in the open air, before a vast gathering of citizens, his long, flossy, silver hair thrown back from his white and aged face, pleaded, with impassioned eloquence, for all to unite in fervent devotion to the work of saving the Union.

Mr. Hotchkiss was very tall, and continual work at his desk gave him a stoop in his shoulders that marred his otherwise fine form; but his earnestness in the trial of a suit, and his keen wit and splendid elocution made him a power at the bar.

Lewis Seymour was slight of figure, with very dark hair and eyes, and his complexion was also very dark. He was very unobtrusive, and his face always had on it the appearance of extreme intentness. He was quite near-sighted, and was at a disadvantage in not readily recognizing acquaintances. His intellect was of the keenest, and his cases were most completely prepared, both as to the evidence and the authorities, and tried with a skill that brought from Roscoe Conkling the remark, "I think I never met a more shrewd and careful lawyer in all my experience."

George Bartlett was strong and portly, and always dressed in a blue cutaway coat, with brass buttons, blue pantaloons and a white vest.

Thomas D. Wright was an orator by nature and cultivation. After a liberal education in Ireland he left that country, an exile on account of his participation in the political troubles of 1848. He studied law with Daniel S. Dickinson and became his partner. He was tall, graceful, and had a rich and clear voice, with enough

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of his native tongue to give his enunciation piquancy. He always wore a broadcloth cutaway coat with a light vest, and never changed his manner of dress with the fashions. He held a fine position as a trial lawyer and eloquent orator, and his early death, at the age of thirty-six, was very greatly deplored by the people generally.

Orlow W. Chapman was known as the "Silver tongued orator." He was of very large proportions, but symmetrical in form and graceful in motion, and was a commanding figure wherever seen.

Broome county has had few trials that are specially memorable.

The case of Cremen is worthy of mention. Subsequent to the civil war a strong organization of burglars was reputed to exist. One noted burglary was that of the Royal Insurance Company in New York City, where a very large amount of booty was obtained. Among the articles stolen were some coupon bonds. In 1869 a coupon was presented to the First National Bank of Binghamton to be cashed. Mr. George Pratt, the cashier, recognized it as a coupon from one of the stolen bonds, lists of which had been sent to the banks. The person offering it was arrested and indicted on the charge of receiving stolen goods. He gave his name as Dyonesius E. Cremen. He was convicted and sent to prison for five years. When sentenced he gave his age as thirty, his occupation a physician, and his residence 227 Henry street, New York City. Both name and occupation were deemed as fictitious by the authorities. He was tried at the June sessions, 1869, held by Judge Griswold. An incident connected with the case may be mentioned. The jailer, Sheriff F. W. Martin, was a man of gigantic proportions and also of resolute courage. Mr. Lewis Seymour was defending Cremens, and he did so

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with rare effort and skill; but he did not consider it his duty to assist in his escape, and he warned the sheriff never to trust himself alone with his prisoner in the journeys to and from the court.

The principal trial of note was that of Edward H. Ruloff, in January, 1871, for the murder of Frederick A. Mirick, in August, 1870. The incidents of the trial are not so remarkable as the career of Ruloff. His name appears many times in the criminal reports, and the cases are largely cited as precedents on the construction of criminal laws. In June, 1845, near Ithaca, New York, he killed his wife and child, and later sunk their bodies in Cayuga Lake, from which nothing of the remains was recovered. He was tried for the murder of his infant daughter in October, 1858, and sentenced to be hung. This conviction was afterwards reversed on the ground that no part of the remains of the infant was ever found. Prior to his trial for murder he had been sentenced to ten years in prison on the charge of abducting his wife.

The murder of Mirick took place in the store of D. M. & E. G. Halbert. Three burglars entered the store, one of whom was Ruloff, and the others were Albert T. Jarvis and William T. Dexter. Mr. Mirick and another clerk were sleeping in the store, and being awakened, a fight ensued, in which Mirick was shot. The burglars then fled, but Jarvis and Dexter were drowned in trying to cross the Chenango river. Later, Ruloff was captured in Binghamton, and tried and executed. The trial was notable for the public excitement. It was presided over by Judge Henry Hogeboom. The trial was also notable for the great public interest in the case aroused by the unfortunate death of young Mirick.

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### ALLEGANY COUNTY

Allegany county was formed by an act of the legislature of April 7, 1806. In that act it was provided that "a court should be held on the second day of June, 1807, at such place in the village of Angelica as should be designated by the sheriff." It was not, however, until the following November that the court of the county was fully organized, and the first session was held on November 10, at the house of Evart Van Wickle, in Angelica. Moses Van Campen and Evart Van Wickle were judges, and Joseph Taylor and William Higgins were assistant justices; all were appointees of Governor Morgan Lewis.

The institution of this court was an event of great satisfaction to the people of that section of the State. It conduced greatly to their convenience, a fact which they very much appreciated. Heretofore, since 1802, they had been compelled to travel to Batavia for the transaction of their legal business, and before that time they had been compelled to go even further away to Canandaigua.

Moses Van Campen, the first judge of the new court, was a noted borderman of the revolutionary period. He had been a famous scout and Indian fighter in New York and Pennsylvania, and a land surveyor. Evart Van Wickle had a reputation as a man of exceptional intelligence and education; he was an accomplished surveyor, and had been an agent of Philip Church in the land transactions of that patentee and founder. The members of the first grand jury of the county were: James Whiting, foreman, Reuben Riggs, George Otto, William Barney, Timothy Hyde, John Irwin, William L. Heydon, Ellis Pierce, William Wilson, Elisha Strong, Benjamin V. Pelt, John Higgins, Moses Johnson, Ransom Higgins, Benjamin Cham-



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bers, Christian Burns, Elisha Chamberlain, Philo Ingraham, Nathaniel Reynolds, Ezra Bacon, Asahel Franklin, Sanders Rogers, John Freeman and Augustus D'Autremont.

No business came before this court and all that was done was to order that the clerk should have a seal made which, in the records, is described as "A plain Copper or Brass seal. with the County round the edges, and on the face an anchor engraved." The clerk of the court was Jacob S. Holt, who was also the first county clerk. Court was adjourned to the second Tuesday of the following June, and at that session in 1808 the first case in the county was tried, The People against Abraham Baker. It does not appear from the records with what offense this Abraham Baker was charged, and it has been further commented upon that the early records did not give, in any except in rare cases, the offense for which the defendant was indicted.

Luke Goodspeed, of Angelica, was the first surrogate of the county, being appointed April 7, 1807. He was succeeded in 1812 by Alexander D'Autremont, who was an early merchant and keeper of a tavern. Successive surrogates were: Daniel Lawrence, 1813; Ebenezer Hyde, 1815; Samuel Southworth, 1815; Zephaniah Z. Caswell, 1815; Samuel C. Wilson, 1831; John G. Collins, 1840; Samuel C. Wilson, 1844; William G. Angel, 1847.

Early county judges were: Philip Church, 1807; John Griffin, 1823; Andrew C. Holt, 1833; Ransom Lloyd, 1838; Samuel C. Wilson, 1843.

The first county judge elected under the constitution of 1847 was William G. Angel, who was for years a leading citizen of Allegany. He held the office of county judge until 1851, when he was succeeded by Lucien P. Wetherby. Judge Wetherby subsequently removed to Wisconsin, where he became a justice of the supreme court. The next county judge was John G. Collins

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who was elected in 1855 and served four years. Subsequent judges were: Wolcott Hatch, 1859; James S. Green, 1871; Harlan J. Smith, 1882; Clarence A. Farnum, 1883-1890, Sheridan McArthur Norton, 1889.

Under the law and apportionment of 1801 the district attorneys of the county were; William Stuart, 1802, Daniel W. Lewis, 1810, Vincent Matthews, 1813, and Daniel Cruger, 1815. A certain "Mr. Clark" appeared as district attorney at several terms of the court in 1809 and 1813, but nothing is known concerning him, or how he came to be officiating. T. H. Porter, in 1818, and Henry Wells in 1819, are also on record as having been appointed special district attorneys. Under the law of 1818 and under the subsequent provisions of the constitution of 1846 the district attorneys were James Cochran 1820; Samuel S. Haight, 1820; John Cook, 1827; George Miles, 1836; Alexander S. Diven, 1841; Wilkes Angel, 1843; Marshall B. Champlain, 1845; L. P. Wetherby, 1847; Augustus L. Davison, 1850; William A. Stewart, 1853; Hamilton Ward, 1856; Milo H. Wygant, 1859; Hamilton Ward, 1862; James S. Green, 1865; Rufus Scott, 1868; C. N. Flenagin, 1874; George H. Loveridge, 1880; O. A. Fuller, 1883; C. H. Brown, 1889.

The first indictment of the grand jury in the county was found in the June term, 1809. David Sanford was charged with assault and battery, and at the trial was found not guilty. Upon another and similar indictment he was found guilty and fined five dollars. Indictments for assault and battery generally prevailed in the county during the first quarter of the century of its existence, far exceeding in number any offenses of different character.

The first trial for grand larceny was in the October term of 1809, Ebenezer Slawson being tried and found not guilty. Dan-

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iel Graham, in 1810, was found guilty of felony and committed to the State prison for four years, being the first representative of Allegany county in the State prison. Other trials in the early history of the county were those of Ammi Hold for forgery, in 1811; Ebenezer Griffith for libel, in 1811; John Radley and Jothan Campbell for horse racing, in 1818. David D. How, in 1824, indicted for the murder of Othello Church, was found guilty and publicly executed, after having confessed to his guilt. Henry W. Tracey was arraigned for "Blasphema" in 1827; and Patrick Brien and William Casey for murder in 1840.

In the middle of the nineteenth century, especially during the years when the Erie railroad was under construction, there were many cases of homicide in the county, but only one conviction was secured, that of Matthew Carrigan, in 1851, for shooting David Romer. Carrigan was executed. Other cases of murder were those of Charles W. Brooks and Arnold W. Huzzard, who were sent to the State prison in 1862; Thomas Burns and Mark Costello who were also convicted of manslaughter, and sent to the State prison; Jane Brooks who, in 1863, was convicted of poisoning, was sentenced to be hanged, but had her sentence commuted to imprisonment for life; David Carpenter who, in 1869, was convicted and executed for murder of his brother; Henry C. Hendryx who shot his wife in 1876, and after two trials was convicted and sentenced to the State prison for life; and Edwin Whipple in 1882, Isaac Griffin, in 1886, and Charles Gilbert and Henry Smith, all convicted of murder and sentenced to the State prison.

### CATTARAUGUS COUNTY

Cattaraugus county was organized in 1817 by act of the legislature, and the regular courts of common pleas and general sessions were ordered to be established. Francis Green,

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Ashbel Truman and James Brooks, judges of the court of common pleas, met at the house of William Baker, June 5, 1817, and declared "the house of William Baker in the said town of Olean, in the county aforesaid, to be the place for holding the first court of common pleas and general sessions of the peace in and for the county of Cattaraugus."

Accordingly the first term of the court was held at the designated place, on the first Tuesday of July, 1817. Timothy H. Porter, first judge, presided, and on the bench with him were James Brooks and Ashbel Truman, assistant justices.

Previous to the organization of Cattaraugus, the territory comprised in it had been a part of that portion of Genesee which in 1808 had been set off from Allegany. When the first court of Cattaraugus was convened, Daniel Cruger, Zephaniah Z. Caswell, David Higgins, Jr., and Asa Hazen were admitted to practice as attorneys and counsellors. The only case that came before this court was that of David McCurdy vs. Israel Curtis, an action for debt. The November term of the court of common pleas for 1817 was held at the same place, with T. H. Porter as first judge, and Ashbel Truman and William Price assistant judges. One civil case, Ebenezer Reed vs. Andrew B. Northrup, was tried, and judgment ordered for the defendant. In succeeding terms of the court of common pleas, as well as of the court of general sessions, the business was of light and inconsequential character.

In 1818 an act was passed by the legislature providing that the courts for the county should be held "at the house of Baker Leonard, in the village of Ellicottville, in the town of Ischua", and accordingly the next term of the court was held in that place in July, 1818, with Timothy H. Porter, Francis Green and James Brooks as judges.

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The first jail limits for the county were established in 1820, and covered ninety-six acres. The next year the limits were extended to a territory of four hundred and thirty-eight acres, and in 1824 to five hundred acres. The first criminal conviction in the county was at the November term of the general sessions of the peace in 1821, when Jerry Birch was found guilty of inveighing, and sentenced to the State prison at Albany for five years at hard labor.

In the act erecting the county, it was provided that three men be appointed to locate the county site for Chautauqua and Cattaraugus counties, and that their bills for such services should be presented to the board of supervisors of the county at the first annual meeting after the organization of the county. These commissioners were James Williams, and Asa Ransom, of Chautauqua county, and Isaac Sutherland, of Cattaraugus. The commissioners established the site at the present village of Ellicottville, and erected a large iron-wood post to mark the location.

The site of this first court house and prison was established in 1818, in the village of Ellicottville, and the county supervisors took the necessary action to provide for the erection of the buildings. The building was erected in 1820 on the public square in Ellicottville. This first county prison was formed of an inner and an outer structure of scored logs, there being left between these a suitable space, which was solidly filled with stones, as a means of greater security against the escape of prisoners; and the building stood upon a stone foundation, which was filled in the same manner, over the entire surface beneath the floors. The rooms below were divided by the hall through the center. On the first side were the cells, and on the other two large debtors' rooms, each twenty feet square. Above

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this was a second story of the same size, which was the court room, or court house, of Cattaraugus. At the November term of the court of common pleas it was ordered "that all processes hereafter to be made returnable in this court, be made returnable at the court house in the town of Ischua, and that the building now erected in said town for a prison and court house shall in all processes and pleadings be denominated the court house in and for the county of Cattaraugus."

The court house and jail building was destroyed by fire in the winter of 1829. As the jailer lived at some distance from the prison and was away at the time the fire occurred, there was great panic and consternation among the prisoners, who screamed "fire," and called frantically for succor; but help arrived in time, and all were rescued.

After this destruction of the county building there was discussion of the question of removing the county site from Ellicottville to some other place in the county, but ultimately the building was reconstructed in 1829, and the June term of the court in the following year was held in it. The county buildings continued in Ellicottville until 1868, when by an act of the legislature of 1865 the county site was removed to the town of Little Valley. Orsell Cook, of Chautauqua, Robert B. Van Volkenburg, of Steuben, and Seth Wakeman, of Genesee, were appointed commissioners by the governor of the State, and they located a suitable site in the village of Little Valley. The corner stone of the court house was laid with Masonic ceremonies, August 22, 1867. The court house and jail were built of brick, with stone foundations and slate roofs, and by November of the same year they were nearly completed. In the May following the county clerk occupied his office, and the sheriff moved the prisoners to the jail in the same month. The

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first session of the supreme court, at which Judge George Barker presided, was held at the new court house, June 8, 1868.

Among the leading members of the legal profession of the county, judges and lawyers, have been: Daniel Cruger, Timothy H. Porter, Asa Hazen, John A. Bryan, Henry Bryan, Chauncey J. Fox, Joseph E. Weeden, William P. Angel, Charles P. Washburn, Anson Gibbs, D. H. Bolles, Norman M. Allen, E. A. Nash, and W. H. Henderson.

Judges of the county court from the organization of the county have been, with the dates of their appointment or election: Elijah Miller, 1817; Timothy H. Porter, 1817; James Adkins, 1820; Alson Leavenworth, 1823; Benjamin Chamberlain, 1833; Rensselaer Lamb, 1847; Chester Howe, 1851; Nelson Cobb, 1855; William Woodbury, 1859; David H. Bolles, 1863; Rensselaer Lamb; Samuel S. Spring, 1870; William H. Henderson, and Allen D. Scott, 1875.

Surrogates with the dates of their appointment or election have been: Jeremy Wooster, 1817; Walter Wood, 1820; Jeremy Wooster, 1821; Moses Beecher, 1830; Robert H. Shankland, 1838; Allen D. Scott, 1857 and 1861; Arunah Ward, 1865; William Manley, 1869; James D. McVey, 1873; Hudson Ainsley, 1879; Alfred Spring, 1879.

District attorneys with dates of their appointment or election have been: A. Gibbs, 1831; James Burt, 1836; Daniel B. Wheeler, 1843; William P. Angel, 1845 and 1847; William H. Wood, 1850; Alexander Sheldon, 1853; William P. Angel, 1856; Samuel S. Spring, 1859; Merrill T. Jenkins, 1865; William G. Laidlaw, 1871; Frank W. Stevens, 1877.

### CHAUTAUQUA COUNTY

Chautauqua county was organized March 11, 1808, but the organization was not fully completed until the year 1811. In the

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former year Jonas Williams, Isaac Sutherland and Asa Ransom were appointed commissioners to decide upon a county seat, and at Mayville they erected a large hemlock post to mark the spot where the court house should stand. In 1811 plans were laid for building a court house and jail, but the effect of the war of 1812 interfered. The June term of court in the year 1814 was held in the unfinished court house, but the November and February terms following were adjourned to Scot's Inn because of cold weather. The June term in 1815, however, was held in the finished court house, which served for a period of nearly twenty years.

In 1832 the county poor house was erected upon a farm near Dewittville, not far from the east shore of Chautauqua Lake. It comprised a substantial brick building, ninety-four feet long and thirty-five feet wide, and cost \$3,500. It was opened December 21st, 1832, and the first inmate was Jacob Lockwood, a lunatic, who then commenced a permanent residence there of thirty years.

By act of the Legislature of March 22, 1832, the board of supervisors was required to raise \$3,500 for the purpose of building a jail. Later the amount was raised to \$5,000 and with this amount a brick building sixty feet long, thirty-five feet in width and two stories high, was erected as a jail in Mayville.

The legislature in 1834 appointed Thomas B. Campbell, William P. Peacock and Martin Prendergast commissioners to contract for and erect a new court house; the board of supervisors, by the act, was required to raise \$5,000 for this purpose. The commissioners entered into a contract with Benjamin Rathburn, of the city of Buffalo, to erect the frame work of the building, which was done and accepted by the commissioners, but the board of supervisors, in December, 1834, showed their displeasure with the way in which the commissioners had fulfilled their duties, and memorialized the legislature to remove Peacock and



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Prendergast as commissioners, and to appoint Elial T. Foote and Leverett Barker in their place. The legislature of 1835 enacted a law by which the supervisors were required to raise an additional sum of \$4,000 to complete the building; they did not remove the commissioners complained of, but added Messrs. Foote and Barker to the commission. The court house was then completed and occupied in 1835, and stood on practically the same site as the first court house.

The building of 1835 served until 1907, when it was torn down and supplanted by a large commodious building, first occupied in 1909. For a new number of years prior to the destruction of the court house of 1835, the offices of the county clerk and treasurer were located across the main street from the court house on account of its congested condition. The new court house was constructed to accommodate these offices and those of the surrogate and district attorney.

The first session of the court of common pleas convened at Mayville, June 25, 1811, in Scot's Inn. Judge Zattu Cushing presided, and Judges Thompson and Alexander and Justices Abell and Dexter sat as side judges. The session was of four days duration; no case was tried, but the court transacted the business of designating and surveying the jail liberties; of selecting a device for the seal of the court, an eagle, surmounted by the words "Chautauqua Common Pleas;" of granting a license to Thomas Bemus to operate a ferry across Chautauqua Lake at the place then known as the narrows, (the ferry is still operated at the same point between places now known as Stow and Bemus Point); of adopting rules, and of admitting Daniel G. Garnsay and Caspar Rouse to practice law. At that time three attorneys resided in the county—Anselm Patten, the first attorney to settle in the county—Dennis Brackett, and Jacob Houghton.

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The first court of sessions was held in November, 1811. At this time occurred the first trial in a court of record in the county in the case of Charles Forsythe against William Spear, in which Brackett, as attorney for the plaintiff, secured a verdict for his client of \$30. The first criminal trial in the county was at the same term, in the case of the People against Sylvanus Mabee; the defendant had been indicted for assault and battery and was acquitted.

The first court of oyer and terminer was convened July 9, 1817, Judge Ambrose Spencer presiding. The dignity and ceremony of the day is described by an historian thus: "The judge, escorted by the sheriff, his deputies and the constables, armed with staves of office, marched to the court house, where the escort opened to the right and the left, and the judge, preceded by the sheriff, entered the court room."

The first term of a Federal court held in Chautauqua county convened July 10, 1900, and was presided over by Hon. John R. Hazel, district judge of the United States for the Western district of New York.

In 1811 Governor Tompkins appointed Zattu Cushing, first judge. Judge Cushing was the first incumbent of that office, and served for thirteen years. Elial Foote succeeded him in 1824; Thomas A. Osborne succeeded the latter in 1843, and Thomas B. Campbell became first judge in 1845 and served to 1847, when, by the constitution of 1846, the office of first judge was abolished. A complete list of the associate judges in Chautauqua county from the appointment of Judge Cushing are as follows: Matthew Prendergast, Philo Orton, Jonathan Thompson, William Alexander, William Peacock, Jared Freeman, Elial T. Foote, James P. Campbell, John Crane, Thomas A. Osborne, Ebenezer P. Upham, Elisha Ward, Joel Burnell, John

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Chandler, Nathan Mixer, Francis P. Ruggles, Isaac Harmon, John M. Edson, Benjamin Walworth, Caleb A. Daughaday, Alexander H. Earic, Hiram Sackett, and Franklin H. Waite. In 1811 the following men were named as associate justices: Henry Abell, William Gould, John Dexter and Abiram Gould. The first judge, with associate judges and justices, constituted the court of common pleas, until 1818, when by statute the office of associate justice was abolished, the common pleas after that being constituted of the first judge and four associate judges.

The constitution of 1846 created the office of county judge in place of first judge, and the following men have been elected to that office: in 1847, Abner Lewis; in 1852, Selden Marvin; in 1859, Abner Hazeltine; in 1863, and again in 1867 Orsell Cook; in 1871, Emory F. Warren; in 1877, Thomas P. Grosvenor, upon whose death in 1881, Henry O. Lakin was appointed to fill the vacancy; in 1882, John S. Lambert; in 1890, Almon A. Van Dusen; in 1896, Jerome B. Fisher, upon whose retirement to become Supreme Court reporter in 1906, Arthur B. Ottaway was appointed and later elected.

The following is a partial list of Chautauqua county lawyers who have been justices of the Supreme Court: James Mullett and Richard P. Marvin were elected to that position in 1847; George Barker was elected in 1867; John S. Lambert was elected in 1890; John Woodward was appointed in 1896, and elected in that year for a full term; and Warren B. Hooker, who was appointed in 1898 and elected the following year for a full term.

The first murder trial to be held in the county did not come until 1834, more than thirty years after the first settlement, and was one of the last trials to be held in the old court house. On the 24th day of April, 1834, Doctors Walworth and Crosby, of

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Fredonia, were called to the residence of Joseph Damon, about three miles from the village. There a terrible tragedy had been enacted. The wife of Joseph Damon was found on a bed with face, hair and the pillow on which she lay stiff with her clotted blood. The blood smeared fire poker, which then stood near the fireplace, was unmistakable evidence of the instrument used to commit the horrible deed.

Damon's trial occurred on September 22, 1834. Judge Addison Gardiner presided, with Hon. Philo Orton, Thomas B. Campbell, Benjamin Walworth and Artemus Herrick, judges of the county court, as associates. Samuel A. Brown, district attorney, and Sheldon Smith, of Buffalo, appeared as counsel for the People, while the prisoner was defended by James Mullett and Jacob Houghton, of Fredonia. Damon was convicted, and sentence of death was pronounced at the oyer and terminer held in March, 1835. On the 15th of May following, a gallows had been erected in the open field at Mayville, on the west declivity of the hill, not far from the present Union school building. The sheriff, William Saxton, called out the Two Hundred Seventh regiment of the militia, with William D. Bond in command, to serve as a guard on this occasion. A public execution took place; men, women and children from all part of the county came to witness the scene on foot, horseback, and in wagons, the day having been made a general holiday; the number of spectators was estimated at from eight to fifteen thousand. When the drop fell, the fastenings of the rope broke away, and Damon fell to the ground. He then appealed to the sheriff to postpone the execution, but public sentiment had not reached the deep aversion to legal public executions, and the rope was readjusted and the hanging was completed. This was the last public execution to take place in Chautauqua county.

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The execution of David H. Howe, in Allegany county, the execution of the three Thayers in Erie county, and the execution of Damon, in Chautauqua county, all within ten years of one another, have been regarded as the culmination of the most celebrated criminal causes in Western New York.

At the close of the trial, in summing up for the prisoner, James Mullett made a powerful plea, and, but for the stern theological training of that time, it might have been effective to clear the prisoner, but Damon had been secured red-handed at the scene of the crime. The defense was insanity. The plea of Mr. Mullett has been accurately preserved. The quality of forensic eloquence of that day may be judged from his concluding sentences:

"If in wandering through the maze of facts and night of argument which envelop this case, you could take the star of your own feelings for a guide, how earnestly could he invoke you by your love of life, by all the kindly affections which entwine as round your hearts, and bind you to earth; by your fear of death, and dread of eternity, to spare him, that he may, under the protection of his friends, go to the scene of his former humble happiness, endeavor to reunite the links of his broken mind, and learn the clue to his misfortunes; that if they can be traced to any dangerous and maddening indulgence, or blind impetuosity of passion, he may, with his penitential tears, shed upon the grave of the injured one, wash the blood from his own soul; that he may once more press to his aching bosom the bereaved objects of his paternal care, and morning after morning in the holy calm of twilight, before the young day is startled by the sins of man, lead them to a mother's grave, and try to tell them of a mother's love. That for their sake he may efface the memory of former examples and warm their young souls with hopes he never knew. And that when he shall have spent the few short days of his remaining life in cherishing the affections which are left to his widowed heart, he may quietly lay down the burden of mortality and bless you for the hopes of a happy eternity. Or if the decision of his destiny could be submitted to this assembled community, whose countenances now glisten with the kind and forgiving sympathies of their nature, and who bend with tender commiseration over the misfortunes of a fellow mortal, how

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soon would his desponding and sinking soul be renovated by their united voice to save him—save him for pity, and not for vengeance.”

HERMAN J. WESTWOOD.

Fredonia, New York.

### FRANKLIN COUNTY

Franklin county was set off from Clinton, March 7, 1808. The building known as Franklin Academy, located at Malone, served as the first court house and jail until after the war of 1812. In 1809 an act of the legislature was passed designating the site for the court house as “the rising ground a few rods west of the bridge in Malone, where the dwelling house of Noah Moody at that time stood.” In 1810-11 appropriations were made for building a court house and jail, and a court house was erected on said site and first occupied in 1813. The jail was at that time in the basement of the court house. In 1819 a separate building of stone was erected for the clerk’s office of Franklin county. A permanent separate jail was built in 1852. The building included a residence for the sheriff. The stone clerk’s office of 1819 and the stone sheriff’s dwelling and jail of 1852 stood until the present buildings were erected in 1892. The old wooden court house was torn down and a new stone one erected in 1875, which is the present structure of brick and stone.

The court of common pleas was continued in Franklin county down to 1847. The judges of this court consisted of five members, one of which was designated as the “first judge.”

The list of the first judges and their terms of service are as follows:—Ebenezer Brownson, February 21, 1809; George H. Harrison, April 7, 1814; Joshua Nichols, March 28, 1815; Albon Man, July 8, 1816; Hiram Horton, November 10, 1820; Ebenezer Brownson, January 31, 1823; Benjamin Clark, March

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19, 1825; William Hogan, March 25, 1829; Roswell Bates, April 1, 1837; Henry B. Smith, July 24, 1843.

After the adoption of the constitution of 1846 creating county courts and county judges, Joseph R. Flanders was elected county judge, June, 1847; John Hutton, November, 1851; George S. Adams, November, 1855; Henry A. Paddock, November, 1859; Albert Hobbs, November, 1867; Horace A. Taylor, November, 1877; Samuel A. Beman, November, 1889; Fred'k G. Paddock, November, 1907.

The county judges, after the constitution of 1846, in this county, also acted as surrogate. Previous to that the surrogates were appointed, and for the county of Franklin they were as follows:—Joshua Nichols, March 23, 1808; Albon Man, April 7, 1814; Ebenezer Brownson, July 8, 1816; James B. Spencer, April 16, 1828; Sidney Lawrence, November 14, 1837; Martin L. Parlin, March 31, 1843.

FREDERICK G. PADDOCK.

Malone, New York.

### NIAGARA COUNTY.

Niagara county, in the northwestern part of the state of New York, was erected in March, 1808. Originally its territory included what was set off as Erie county in 1821. Buffalo was the county seat of Niagara, as it has since been the county seat of Erie. Previous to the erection of Niagara into a county, no courts had been held in western New York, west of Batavia.

The first court term which opened in Buffalo was held in the public house of Joseph Landon, which stood on the south side of what, in subsequent years, became Exchange street. The court was presided over by Augustus Porter, of Niagara Falls, and Erastus Ranger, of Buffalo, was one of the puisne judges. After

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Judge Porter came Samuel Tucker in 1812, Samuel Hotchkiss, of Lewiston, in 1818, and Samuel Wilkerson in 1820, who, when the county was divided a year later, was succeeded by Silas Hopkins, of Lewiston.

The first court house erected for Niagara county in its original estate was built in 1806-1809. It was a frame building, and stood in the center of a half acre of land which was laid out in circular form, in Washington street, Buffalo, almost immediately in front of the site of the present day court house. It appears that the building was a long time in reaching completion, for as late as 1810 it was referred to as "an unfinished wooden court house." A stone jail was also erected near the court house. When Buffalo was burned by the British in December, 1813, the court house was destroyed, but the jail was only slightly damaged, and being repaired, was used for a score of years after.

In 1816 the Legislature passed an act authorizing the loan of \$5,000 by the state to the county for the purpose of building a new court house. The building was constructed under the superintendency of Samuel Tucker, Joseph Landon and Jonas Williams, commissioners. When the county of Erie was created in 1821 and Niagara was reduced to its present limits, Lewiston was made the county seat. For two years a stone school house on the academy lot in Lewiston was used as a court house, and there the first circuit court of the county was held.

In the act by which Niagara county was finally created as it now is, Silas Hopkins was appointed first judge; James Van Horn and Robert Fleming, judges; Althrop Cook, sheriff, and Oliver Grace, clerk. Commissioners were appointed to take under consideration the question of the permanent county seat; nothing was decided by them, but another commission appointed by the legislature in 1822 agreed upon Lockport for that purpose.



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Building of the court house was immediately commenced, but the structure was not completed until January, 1825; upon that date the first courts in the county, as at present bounded, were held. In 1823, Silas Hopkins and Samuel Deveau, of Niagara, Robert Fleming, of Lewiston, James Van Horn, of Newfane, and E. A. Richardson, of Cambria, were appointed judges. These judges and supervisors were appointed as justices for the different towns: James Field, Oliver Dickerson, George Richards and Jerry S. Jenks, Niagara; Rufus Spaulding, Gideon Frisby, James Murray and Asabel Sage, Lewiston; E. A. Richardson, Andrew Sutherland, John Gould and Myron Orton, Cambria; and others for other towns in the county.

Jail limits were laid out in 1823, and the court house which was completed in 1825 continued in use for sixty years, but in the increased business of the court the antiquity of the old structure finally compelled the consideration of a new county building. In 1885 the old court house was torn down and the present court house and jail erected on the same site. The contract for the construction of the new building at a cost of \$68,000 was entered into in May, 1885, and in less than twelve months the building was finished, an admirable example of modern architecture. The building committee consisted of A. R. Furgason, Albert Malden, A. W. Gatchel, H. J. Lealand, and J. Binkley.

The supervisors were able to take possession of their quarters in the building in November, 1886, and the formal dedication occurred a month later, when the county court and court of sessions first convened there. Upon this occasion the Honorable Alvah K. Potter, judge, presided, and besides him on the bench were Gordon Roe and Duncan R. Maxwell. In the address which was delivered on this occasion by Major James Franklin Fitts, much interesting historic matter was presented concerning the

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early years of the bench and bar of the county. Speaking of the meeting of the first circuit court in 1823, Major Fitts said:

"In 1823 the first circuit court was held in Lockport by Judge Rochester, in an upper room of the Mansion House, on West Main street. In January, 1825, the now venerable building across the way was completed and first occupied by a court. The square of three acres intersected by Niagara street upon which stand both court houses, jail and clerk's office, was conveyed in 1822 by William M. Bond and wife, to the supervisors of Lockport for a nominal consideration of one dollar 'for the use of the county of Niagara.' Scant was the population, as I have said: the primeval forest was everywhere; the warwhoop of the savage and the red coat of the British soldier had but lately vanished; yet the settlers were enjoying some of the blessings of civilization, the lawyers among them. At that early day the bar of the county numbered ten persons. Let the names of those fathers of the local bar be mentioned with reverence at this time; they were John Birdsall, William Hotchkiss, Z. H. Colvin, Bates Cook, J. F. Mason, Elias Ransom, Hiram Gardner, Theodore Chapin, Sebridge Dodge, and Harry Leonard."

Much has been written concerning members of the bar of the county. In an address delivered several years ago, the Honorable John E. Pound, of Lockport, spoke in most interesting fashion concerning these early legal lights:

"Of John Birdsall history says, in connection with the building of the locks of the Erie canal at Lockport: 'Oratorically John Birdsall stood upon the foundation stone of the locks in 1823, the echo of his voice returning from the surrounding wilderness, cleft and announced the commencement, and on the deck of a canal boat at the head of the finished locks, October 26, 1825, proclaimed to the assembled populace, 'the last barrier is removed'. He became judge of the supreme court and member of congress, and held other high positions.

"William Hotchkiss and Zina H. Colvin became district attorneys: Elias Ransom became district attorney, and he and Hiram Gardner worthily held the office of county judge, and are still remembered in honor by many. John F. Mason was the second county clerk of the county. Bates Cook became comptroller of this State and member of congress. Theodore Chapin was justice of the peace and father-in-law of a lawyer named Hart, who amused the boys of his days by wearing high shirt collars which they thought cut his ears. Sebridge Dodge was a great Nimrod. The names of Chapin, Dodge and Leonard do not appear in

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the civil list, but the success of the seven out of the ten shows that the first bar of Niagara county was composed of able men."

Following are the names of the first judges of the court of common pleas prior to 1846, and the county judges after that date: first judges, Augustus Porter, 1808; Samuel Tupper, 1812; William Hotchkiss, 1818; Samuel Wilkeson, 1820; Silas Hopkins, 1823; Robert Fleming, 1828; Nathan Dayton, 1833; Washington Hunt, 1836; Elias Ransom, 1841; Jonathan L. Woods, 1846; Hiram Gardner, 1847; Levi F. Bowen, 1851; Elias Ransom, 1852; Alfred Holmes, 1857; George D. Lamont, 1865; Hiram Gardner, 1868; Levi F. Bowen, 1873; Frank Brundage, 1878-81; Cyrus E. Davis, 1883; Alvah K. Potter, 1884-89; David Millar, 1890-95 and Charles Hickey, 1896.

Following are the names of those who have held the office of surrogate of the county: Archibald S. Clarke, 1808; Otis R. Hopkins, 1812; Amos Callender, 1813; Ebenezer Johnson, 1815; Roswell Chapman, 1821; Rufus Spaulding, 1821; Willard Smith, 1822; Hiram Gardner, 1831; Joseph C. Morse, 1836; Henry A. Carter, 1841; Josiah K. Skinner, 1844; Thomas M. Webster, 1851; Mortimer M. Southworth, 1855; George W. Bowen, 1859; Henry D. Scripture, 1863; John T. Murray, 1867; Joshua Gaskill, 1871; George P. Ostrander, 1877; William J. Bulger, 1883; Chauncey E. Dunkelberger, 1888-95. In the year 1896, by vote of the people of the county and under a special act of the legislature, the offices of county judge and of surrogate were merged in one, which was filled by Charles Hickey.

District attorneys who have held office in the county have been: Charles G. Olmsted, 1818; Heman B. Potter, 1819; Zina H. Colvin, 1821; Elias Ransom, Jr., 1830; William Hotchkiss, 1833; Joseph C. Morse, 1836; Robert H. Stevens, 1836; Jonathan L. Woods, 1839; Alfred Holmes, 1843; Sherburne B. Pi-

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per, 1845 and 1847; George D. Lamont, 1850; John L. Buck, 1853; Andrew W. Brazee, 1856; Mortimer M. Southworth, 1859; Frank Brundage, 1874; Benjamin J. Hunting, 1877; Eugene M. Ashley, 1880; Daniel E. Brong, 1886; Patrick F. King, 1890; Abner T. Hopkins, 1896.

Many members of the Niagara county bar have achieved distinction in broader fields of professional activity. Washington Hunt was conspicuous among his associates in the early part of the nineteenth century. When he was only twenty-four years old he was appointed the first judge of the county, in 1836, and held that office for five years. From 1843 to 1849 he was a member of congress, and in 1850 was elected governor of the state on the Whig ticket in opposition to the Democratic candidate, Horatio Seymour. In the various official positions which he held during his life he exhibited characteristics that "gave him the confidence of his fellow citizens and enabled him to perform the duties that devolved upon him with a good measure of success." He died in New York city, February 2, 1867.

Hiram Gardner, who was admitted to practice at the bar in 1822, located in Lockport in the same year. In 1823 he was appointed to the office of justice of the peace, and subsequently was associate judge of the court of common pleas, a supreme court commissioner, a master in chancery, a surrogate, a member of the State legislature, a member of the constitutional convention of 1845, a canal commissioner and a county judge. For more than half a century he was a legal practitioner, and held high rank in judicial office. He died March 13, 1874.

Other prominent lawyers of the county have been: George D. Lamont, who attained to the position of justice of the supreme court in 1865; Alfred Holmes, who was a master of chancery, a district attorney, and for two terms a judge of the

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county, and one of the ablest practitioners of the bar of that section of the state; John L. Buck, who filled the office of district attorney with distinction; Judge Silas Hopkins, who was the first to hold the office of judge in the county after Erie was set off; Charles E. Davis, who was one of the ablest judges of the county, and who won at the bar many great victories; Sherburne B. Piper, George C. Greene, George W. Cothran, Edward C. Graves, Luman H. Nichols, Henry K. Hopkins, Samuel Brown, Mark Hopkins, Samuel Wisner, Joseph Centre, De Witt Chapin, Seth C. Hart, Andrew W. Brazee, William S. Farnell, John S. Williams, Charles Williams, De Forest Porter, Horatio J. Stowe, Samuel Deveau, Sparrow S. Sage, Joseph C. Morse, Elias Safford, Milton Seaman, Sullivan Caverno, John B. Heroy, Freeman J. Fithian, Charles D. Metz, Frank A. Ransom, Robert H. Stevens, Albert Stevens, Homer H. Stewart, Alvin C. Bradley, John H. Buck, R. Hudson Bond, James F. Fitts, Lafayette Chaffee, Schuyler Reynolds, Sylvester Parsons, Volney Simson, Ben. J. Hunting, and S. Cady Murray.

### CORTLAND COUNTY

Cortland county was set off from Onondaga by an act of the legislature of April 8, 1808. This act provided for holding in the county of courts of common pleas and general sessions of the peace on the second Tuesday of April, and the first Tuesdays of September and December in every year. The act also provided that the courts "should be held at the school house on Lot No. 45 in the town of Homer." John Keep was appointed to be the first judge, and his appointment was dated April 3, 1810.

The first court house was erected in Cortland village, after

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the usual animated controversy over the respective merits of several villages of the county as to their claims to be the county seat. A wooden structure was put up which remained standing in a dilapidated condition until after the middle of the century. In subsequent years, however, this was replaced by a new, more convenient and more imposing building which was completed in 1836. The clerk's office was created in 1819, and the first clerk was John Ballard, who was appointed, April 8, 1808.

Judges for the first half of the century after the county had been organized were: John Keep, 1810; William Mallery, 1823; Joseph Reynolds, 1833; Henry Stephens, 1838; Daniel Hawkes, 1847; Lewis Kingsley, 1851; R. Holland Duell, 1855; Stephen Brewer, 1859; Hiram Crandall, 1860; Abram P. Smith, 1868, Stratter S. Knox, 1884; and Joseph E. Eggleston, 1890.

District attorneys for the same period, were: Augustus A. Donnoley, 1819; Edward C. Reed, 1827; William H. Shankland, 1836; Horatio Ballard, 1842; Augustus S. Ballard, 1847; R. Holland Duell, 1850; Edwin C. Reed, 1856; Abram P. Smith, 1856; George B. Jones, 1860; Alvah D. Waters, 1866; Riley Champlin, 1870; Lewis Bouton, 1871; Benjamin T. Wright, 1874; Byron A. Benedict, 1877; Irving H. Palmer, 1883; Horace L. Bronson, 1886; Jerome Squires, 1892; Miles E. Burlingame, 1895; Edwin Duffey, 1898; Thomas H. Dowd, 1901; Levi R. Chase, 1907; and Edward W. Hyatt, 1910.

Surrogates, with dates of their appointment, were: John McWhorter, 1808; Mead Merrill, 1810; Luther F. Stevens, 1811; John McWhorter, 1815; Adin Webb, 1816; Jabez B. Phelps, 1823; Charles W. Lynde, 1828; Townsend Ross, 1832; Anthony Freer, 1836; Adin Webb, 1840; Anthony Freer, 1844.

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### *SCHENECTADY COUNTY.*

Schenectady county was organized from Albany county in March, 1809. For nearly two hundred years previous to that date, the territory which finally came within the county limits had been populated, and its legal history, embraced in that of Albany county, is comprehensively covered in the early legal history of the colony of New Netherland and New York. Local courts were established within its borders and court officials appointed as early as the first quarter of the seventeenth century. Subsequently its lawyers were members of the Albany bar and practiced there.

As soon as the county was formed in 1809, the county courts were organized—the court of common pleas, the court of general sessions and the surrogates court; and times and place were appointed for the holding of the circuit court, courts of oyer and terminer and supreme court terms. The leading member of the judiciary of the county was Joseph C. Yates, who had just been appointed a justice of the supreme court of the State.

The first judge of the court of common pleas of the county was Gerrit S. Vedder. William J. Teller was surrogate, Peter F. Vedder, clerk, and James V. S. Reilly, sheriff. The first court held was a court of general sessions in May, 1809. On this occasion First Judge Gerrit S. Vedder presided, and seated with him were Judges John Yates, Jonathan Herrick, Jacob A. Vrooman and Peter C. Van Slycke. No business was brought before the court. The first circuit court and court of oyer and terminer began session in October, 1810, and disposed of several small cases. Justice Ambrose Spencer, of the supreme court presided.

At the beginning, the bar of the county was not large. In 1830 it had only twelve members: Christopher Fonda, Joshua

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D. Harmon, Samuel W. Jones, Archibald L. Linn, Alonzo C. Paige, Abraham Van Ingen; Edward Yates; Gilbert F. Yates, John B. Duane, Jacob G. Fonda. Ten years later, in 1840, having increased in number but six during that period, it consisted of eighteen members, as follows: Platt Potter, James M. Bouck, John Brotherson, Stephen A. Daggett, Henry Fuller, James Fuller, Alexander Gibson, Joshua D. Harmon, John Howes, S. H. Johnson, Samuel W. Jones, Alonzo C. Paige, John Sangers, D. C. Smith, Abraham Van Ingen, S. R. Van Ingen, James B. Van Voust and Giles F. Yates; only five of the original number remained.

Presiding judges of the court of common pleas of the county prior to 1846 were: Gerrit S. Vedder, 1809; Gardner Cleveland, 1812; David Boyd, 1823; Samuel W. Jones, 1835; Archibald L. Linn, 1840; Samuel W. Jones, 1845.

Subsequent to 1846 the following judges have been elected: Stephen H. Johnson, 1851; John Saunders, 1855; Stephen H. Johnson, 1859; Judson S. Landon, 1865; Walter T. L. Sanders, 1869; Austin A. Yates, 1873; and David C. Beattie, 1879.

District attorneys since 1818, with the years of their appointment or election, have been: John K. Paige, 1818; Alonzo C. Paige, 1823; Platt Potter, 1839; Benjamin F. Potter, 1847; Samuel L. Baker, 1850; James Fuller, 1851; John Van Santvoort, 1851; Samuel T. Freeman, 1853; Simon Calhins, 1856; Judson S. Landon, 1856; John G. McChesney, 1862; John L. Hill, 1865. Austin A. Yates, 1868; Alonzo P. Strong, 1873; Daniel C. Beattie, 1874; Charles E. Palmer, 1877; J. Teller Schoolcraft, 1880.

Surrogates from the organization of the county to 1846 were: William J. Teller, 1809; Robert Hudson, 1813; William J. Teller, 1815; John Yates, 1816; Giles F. Yates, 1821; John Saunders, 1840; David Cady Smith, 1844-1847.



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### SULLIVAN COUNTY.

In the year 1803 the town of Thompson was incorporated, and was so named after Judge William A. Thompson. In 1802 Judge Thompson was appointed by Governor George Clinton one of the judges of the common pleas of Ulster county, and in the following year he was the first judge of that county. When Sullivan county was erected he was its chief magistrate, and remained so until 1823, when he became ineligible by reason of his age, and was succeeded by Livingston Billings. Judge Thompson, a native of the state of Connecticut, was the son of William A. Thompson, who was among the first settlers in this territory. The son became one of the distinguished men of that part of the state, and, after the termination of his official career as chief magistrate of the county, he achieved fame for his scientific and philosophical researches. He died in December, 1847.

In 1804, John P. Jones and his brother, Samuel Jones, made a clearing and erected a saw mill in the woods west of the center of the town of Thompsonville, which Judge Thompson had founded and named. They planned a village there and named it Monticello, and from this small beginning in time developed the present county seat of Sullivan.

Gradually the village of Monticello increased in population and importance, and it was not many years before it became essentially the center of the county activity. Soon after the act to organize the county became a law, several new buildings were erected in Monticello, among them a tavern which provided for a court room on its second floor. This tavern was owned by Curtis Lindley, and there the county courts were held and sometimes the circuit courts. Before 1809 a triangular

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contest began between Liberty, Thompsonville and Monticello in regard to securing the county buildings. The site of the court house and jail was left to be determined by commissioners appointed by the governor—William Ross and Joseph Morrell, of Orange county, and Abraham H. Schenck, of Dutchess, and this commission decided in favor of Monticello. In 1810 a commission was appointed to raise money for building the court house and jail and superintend the erection of the buildings, but there was so much opposition to the measure that it was not until January, 1814, nearly five years after the erection of the county, that the small wooden building erected for the purpose was completed.

On the first day of June, 1809, Governor Tompkins appointed the following officers for the county: William A. Thompson, first judge; Samuel F. Jones, and Elnathan Sears, judges; John Conklin, Jabez Wakeman and David Hammond, assistant justices. In the following October the first term of the court of common pleas was held at the house of Curtis Lindley, in Monticello, Judges William A. Thompson and Samuel Jones presiding. Livingston Billings and Charles Baker were admitted to practice in the courts of the county. At the next term of the courts in January, 1810, William Ross, Samuel R. Betts and Herman Ruggles were admitted to practice. The court adopted a seal showing a rising sun and the words "Sullivan Common Pleas."

In January, 1844, the court house and county clerk's office were destroyed by fire. Immediately following this disaster a long and animated controversy ensued in regard to changing the county seat to some other town than Monticello, but in the end the legislature enacted a law ordering the supervisors to rebuild on the site in Monticello occupied by the county build-

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ings in modern times. Even after that much opposition manifested itself in various ways on the part of the board of supervisors, but in November, 1845, the building was completed.

In the early years of the county there was little litigation or legal business of any character whatsoever. As late as 1835, Randall S. Street, Archibald C. Niven, Peter F. Hunn, Seth W. Bronson and William B. Wright were the only lawyers in Monticello, and there was only one more in the county,—Alpheus Dimmick, of Bloomingburg. Memoranda of the courts in 1845 show that at the two terms of the circuit courts in that year no causes were on the calendar and none were tried. In the same year in the county courts only two civil causes were tried, the aggregate amount of verdicts being eighty-five dollars. Two *certioraris* were decided, one affirmed, and one reversed. The number of judgments in the court of common pleas was sixty-two. In January, 1847, there was not a convict from Sullivan county in the state prison.

First judges, with dates of their appointment or election, have been: William A. Thompson, 1809; Livingston Billings, 1823; Alpheus Dimmick, 1826; Gabriel W. Ludlum, 1830; William Gillespie, 1835; James C. Curtis, 1844. County judges, Alpheus Dimmick, 1847; Westcott Wilkin, 1851; Henry R. Low, 1856; William M. Ratcliff, 1862; Isaac Anderson, 1862; Albert J. Bush, 1866; Timothy Bush, 1872; William L. Thornton, 1878; Alpheus Potts, 1881, and William L. Thornton, 1881.

Surrogates with dates of their appointment or election were: James S. Dunning, 1809; Livingston Billings, 1810; James S. Dunning, 1811; Livingston Billings, 1813; James S. Dunning, 1815; Peter F. Hunn, 1816; Archibald C. Niven, 1828; William B. Wright, 1840; Robert S. Halstead, 1844.

District attorneys with dates of their appointment or elec-

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tion have been: Lemuel Jenkins, 1818; Peter F. Hunn, 1823; Alpheus Dimmick, 1836; Archibald C. Niven, 1847; Charles H. Van Wyck, 1850; William J. Groo, 1856; Isaac Anderson, 1859; John A. Thompson, 1862; Edward H. Pinney, 1865; Benjamin Reynolds, 1868; Alpheus G. Potts, 1871.

Special county judges, with the dates of their appointment or election, have been: Robert L. Tillotson, 1854; William M. Ratcliff, 1860; James Matthews, 1862; John G. Childs, 1862; James Matthews, 1863; John G. Childs, 1863, and E. H. Pinney, 1869.

### PUTNAM COUNTY.

Putnam county was erected from Dutchess, June 12, 1812. It was named in honor of Major General Israel Putnam, who for some time during the war of the revolution was stationed in the lower part of the territory comprised in this county. As was the legislative rule a court of common pleas and a court of general sessions was provided for in the act which established the county, and it was enacted that these courts "shall be holden at the Baptist Meeting House in the town of Carmel, until a court house shall have been built as hereinafter directed and provided."

Joseph Crane, Stephen Barnum, Joseph Frost, Daniel Ferris and John Jewett were appointed commissioners to determine upon a site for the court house and jail, and to superintend the building thereof. In September, 1812, the county supervisors purchased a lot of land about one-half acre in extent in the town of Carmel, "for the purpose (as the records have it) of erecting therein a court house and gaol for the county of Putnam, and such other buildings as shall be necessary for the convenience and accommodation of said county." The court house

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was built in 1814, and the first court was held in it February 15, of the following year.

Agitation in favor of moving the county seat to Cold Springs or to another site in the village in Carmel began in 1842, and an act to accomplish this purpose was passed by the legislature. Nothing, however, came of this movement, and, instead of building a new court house, the old one was repaired about 1840, when a belfry was added. The court house was again repaired and enlarged in 1855, and the present jail was built at that time, replacing the small stone building which had been previously used for that purpose. In 1822 a legislative act authorized the construction of a fire proof clerk's building to replace the small one-story structure of brick, with slate roof and marble floor, which at that time was the headquarters of the county clerk. In the course of time this building was replaced by another which was erected in 1871 in pursuance of resolutions of the board of supervisors, by which Saxton Smith, Charles W. Budd and Sylvester Maybye were appointed "a building committee to cause to be erected a fire proof building on or near the site of the present clerk's office with sufficient accommodations for the county clerks, and surrogates offices." This building was erected, at a cost of \$10,000, principally from stone which was taken from a quarry north of Lake Gilead, in the neighborhood of Carmel.

The first term of the court of common pleas of the county was held in October, 1812, in the Baptist meeting house in Carmel. There were present Stephen Barnum, first judge and Robert Johnston, Harry Garrison and Barnabas Carver, judges. John Jewett was the first clerk of the court, and Robert Weeks was his deputy. R. C. Austin, Joseph Silliman, Walker Todd, William Nelson, Frederic Stone, J. Coffin, William Silliman and John Oppie were admitted to practice in the court. At this ses-

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sion it appears from the records that the entire business transacted consisted of four civil suits for debt.

As established in 1818, the jail limits began "at a stump near the margin of the pond nearly west from the school house." This school house stood at the north end of the park, opposite the school building of modern times.

First judges of the county court were Stephen Barnum, Henry Garrison, Frederic Stone, Bennett Boyd, Robert P. Parrott, Azor B. Crane, Ambrose Ryder, Edward Wright, William Wood and J. Bennett Southard.

District attorneys have been Walker Todd, Frederic Stone, Jeremiah Hine, Charles Ga Nun, John G. Miller, Peter M. Jordan, Levi H. McCoy, Jackson O. Dykman, James D. Little, Samuel J. Owen, William Wood, Frederic S. Barnum, Abram J. Miller, Elisha N. Rusk, J. Bennett Southard, William H. Weeks, and Henry J. Rusk.

Surrogates, with dates of their appointment or election, have been: Joel Frost, 1818; Ralsaman C. Austin, 1813; Joel Frost, 1815; Walker Todd, 1819; Joel Frost, 1821; Jeremiah Hine, 1822; Walker Todd, 1833; Howard H. White, 1840; Abraham Smith, 1840; Azor B. Crane, 1843.

### WARREN COUNTY

Warren county was formed from a part of the old county of Washington. The county seat has, from the earliest times, been at the village of Lake George, in the town of Caldwell. Various attempts have been made to change the location to Glens Falls, which municipality contains nearly one-half the population of the county and two-thirds of its taxable property, but such efforts to the present time have been unsuccessful.

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The first court of common pleas was held on the second Tuesday of September, 1813, at the old Lake George Coffee House, on the site of what was afterwards known as the Lake House, now vacant.

On July 7th, 1815, a committee appointed by Governor Tompkins to find a suitable site for the erection of county buildings, and composed of Salmon Child, Alexander Sheldon and Charles E. Dudley, reported as follows:

"Having examined and explored said county do agree and determine that the most suitable and proper place for said buildings is in the town of Caldwell at the head of Lake George, on a piece of ground north of the Lake George Coffee House, lying between the highway and said lake, and within fifteen rods of a great white oak tree standing between said Coffee House and the Church." This was undoubtedly a description of the site of the present county buildings, and was the initial step towards the erection of the first buildings for county purposes.

William Hay was born in Cambridge, Washington county, New York, in 1790. About the year 1800, Mr. Hay came with his family to Glens Falls, and received only a limited school education, from the scanty opportunities afforded in the unsettled condition of the county in those early years of our history. In 1808 we find him pursuing the study of law in the office of Henry C. Martindale. In 1813 he opened an office for the practice of law at the head of Lake George. In 1817 he was married to Miss Paine, of Northumberland, Saratoga county. In 1819 he became the proprietor and publisher of the *Warren Patriot*, the first and only newspaper published at Lake George. In 1822 he removed to Glens Falls and resumed the practice of law.

In 1827 he was elected to the Assembly from Warren county. In 1837 he removed to Ballston, retaining a branch office at Glens Falls. In 1840 he transferred his residence to Saratoga Springs, where he continued to live up to the time of his

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death, which occurred February 12, 1870. He was a man of broad views, of extensive and varied information, and endowed by nature with great intellectual qualifications, which were always used for the improvement and advancement of human thought and progress.

Of the members of the bar of Warren county, New York, only one, Enoch H. Rosecrans, has attained to the dignity of justice of the supreme court. He held that high office from the year 1855 to 1871, serving two terms of eight years each.

He was born at Waterford, New York, October 16, 1808. His preparatory education was acquired at the Lansingburg Academy. He entered Union College and graduated in July, 1826, with honors. He studied law with his uncle, Judge Samuel S. Huntington, and after admission to the bar in 1829 he became and continued the law partner of the latter gentleman for about two years; came to Glens Falls in 1831, and was married to Cynthia Beach, of Saratoga Springs, in 1832, and received the appointment of supreme court commissioner and master in chancery the same year.

In 1867 the degree of LL.D. was conferred upon him by Union College. He was elected judge of the supreme court in 1854 and again in 1863, and continued to discharge the duties of that position until his term of office expired in 1871. He sought a renomination, but failed to obtain it. His practical retirement from the bar soon followed, and although frequently consulted on important matters, he did not enter upon any active practice in court. He was prompt to decide, and expeditious in the transaction of business; his language was concise and pointed, and his written opinions evinced an extensive knowledge and clear conception of the law seldom surpassed in the



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annals of the supreme court. He died May 1st, 1877, mourned by a large circle of private and professional friends.

Halsey R. Wing was born at Sandy Hill, Washington county, New York. He entered Middlebury College, Vermont, and graduated there in 1832. His legal studies were pursued in the office of Hon. Samuel Cheever. He served for a brief period as assistant district attorney of Albany county.

In 1835 he was married to Harriet N. Walton, of Montpelier, Vt. He came to Glens Falls in 1841, in which year he was admitted as counsellor at law, and the following year as solicitor in the United States courts, and counsellor in chancery.

In 1845 he became the first judge of the county, having previously been elected to the office of justice of the peace and inspector of common schools. In 1851 he entered into partnership in an already established business, the celebrated Jointa Lime Company, consisting of himself and Mr. John Keenan, and continued a member of the successful firm up to the time of his death. After entering the Jointa Lime firm he gradually withdrew from the practice of the law and did not again appear as an active practicing attorney in court.

Afterwards, Mr. Wing became largely connected with many other important and successful industries of Glens Falls, and was always respected by his associates for his uncompromising honesty and faithful performance of every duty which he was called upon to discharge. He died January 26, 1870.

Emery D. Harris, for many years a law partner of the late Judge Davis, was born in Washington county, N. Y., in 1837.

He was admitted to the bar in 1861, was the Democratic candidate for district attorney in 1868, making a remarkable

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run under adverse circumstances, and coming within thirteen votes of an election.

Genial and warm hearted by nature, generous to a fault, possessed of a bright, clear, perceptive intellect, widely known and very popular, a good lawyer and devoted friend, he passed quietly away, March 7, 1877, in the morning of his manhood, a victim of the fatal malady of consumption, loved and esteemed most by those who knew him best.

Isaac J. Davis was born at Castleton, Vermont, in 1831. His education was chiefly acquired at the common schools. He came to Glens Falls in 1851, and commenced reading law in the office of L. H. Baldwin. He taught a district school the following winter, and in the spring renewed his studies with Henry B. Northup, of Sandy Hill, where he remained one year. He then returned to Glens Falls and finished his studies in Baldwin's office.

He was admitted to the bar in 1853, and immediately opened an office. From 1854 to 1857 he was a law partner of Halsey R. Wing. He was the Democratic candidate for district attorney in 1859, and in 1863 for senator; he was defeated, although running ahead of his party ticket in both instances. He was elected county judge in 1871 and again in 1877.

He was twice married, first to Miss Gray, of Arlington, Vermont, in 1857, second to Miss Williams, of Schuylerville, New York, in 1865. The latter lady survives him.

Judge Davis was emphatically democratic in make up and manner, rarely lost an opportunity to make a new acquaintance, and as a consequence was more generally known through the county than any man that had ever lived in it. He died March 11th, 1882.

Melville A. Sheldon, for fourteen years a partner of Judge Brown, was born in Essex county, New York, in 1829.

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He was admitted to the bar in 1852, and came to Glens Falls in 1868. He served as president of the village of Glens Falls and as a member of the board of education of the Union Free School. He was district attorney of Warren county for three years.

As a lawyer, Mr. Sheldon was conceded to be without a superior in Northern New York—a man absolutely without hypocritical polish, sham or pretense, a man eminently worthy of respect and confidence, and an honor to the profession and the community in which he lived. Seemingly reserved in manner, he yet possessed a heart, kind, generous and sympathetic. He died January 9, 1890.

Orange Ferris was born in Glens Falls, in 1814. His elementary education was received in his native village. His collegiate course was pursued at the University of Vermont. He studied law in the office of Hon. William Hay, of Glens Falls, and was admitted to the bar in 1840.

The following year he was appointed surrogate of the county, in which position he served for four years. In 1851 he was elected county judge and surrogate, and was re-elected in 1855 and again in 1859, thus serving in that capacity for twelve consecutive years. In 1865 he received the appointment of provost marshal for the Sixteenth congressional district, but declined to serve. In 1866 he was elected to congress and was re-elected the succeeding term. In 1871 he was appointed commissioner of the court of claims, and in 1873 was reappointed for four years to the same position. In May, 1880, he was appointed second auditor of the treasury department, a position which he occupied until removed by the Democratic administration of President Cleveland.

Whether acting as judge, congressman, commissioner, or

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auditor of the treasury, Judge Ferris always maintained a spotless character which commanded universal respect. He died April 11, 1894.

Isaac Mott was born in the town of Moreau, Saratoga county, New York, September 25, 1818.

In 1836, a young man just from school, he was engaged as civil engineer on the New York and Erie. The financial crisis of 1837 led to a suspension of the work and the young engineer was thrown out of employment, an incident which probably changed the entire current of his life. About this time he was offered a lucrative position on the State works, but declined, anticipating the continuance of the work on the Erie railroad. The summer of 1837 was devoted to the study of mathematics and traveling, and the following winter was profitably spent in teaching school in Washington county.

In the spring of 1838 he commenced the study of law in the office of the Hon. William Hay, at Glens Falls, and continued his studies for several years, occasionally teaching school in the winter. He was admitted to the bar in 1844, and commenced at once the practice of his profession at Schuylerville, Saratoga county.

In 1847, Mr. Mott was married to Miss Mary A. Cox, of Schuylerville, by whom he had three sons,—Charles M., Abram C. and Edward P., and a daughter, Alice E.

In the fall of 1847, Mr. Mott, then but little known in the legal profession, moved to Glens Falls, New York, where he formed a law partnership with Allen T. Wilson, who moved to California. In 1850 Mr. Mott was elected superintendent of public schools for the town of Queensbury, a position which he most satisfactorily discharged for six successive years. In 1856 he was elected district attorney for the county of Warren, and

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discharged the duties of this position with marked ability, tact, wisdom, prudence and economy, which merited and won universal respect, and as a consequence retained possession of the office for twelve successive years. In 1872 he was elected presidential elector on the Republican ticket, and voted for General Grant at the electoral college of that year. He died July 2, 1898.

Stephen Brown was born July 4, 1825, at Hubbarton, Massachusetts, and died October 8, 1907, at Glens Falls, New York. He was the son of Russell and Clarissa Waite Brown.

He settled in Glens Falls in the early fifties, and at once acquired and through all his life retained a leading position at the bar. In 1853 he was elected district attorney of Warren county and served for three years. In 1863 he was elected county judge and surrogate, which office he held until 1871.

In the early days of his practice he was associated with Judge Ellsworth, and later with Edward Riggs, who gave up the practice of the law to enter the army during the civil war as a captain in the One Hundred and Eighteenth Regiment New York Volunteers.

Judge Brown was for many years associated with M. A. Sheldon, and the firm of Brown & Sheldon, during this time, was among the most prominent in Northern New York.

For several years before his death, Judge Brown and his son constituted the firm of S. & L. M. Brown, and was engaged in a very active practice, representing very important financial interests, and acting as counsel for many prominent firms and corporations.

He was the senior director and vice-president of the Glens Falls Insurance Company, and for over forty years chairman of its executive committee. He was President of the National Bank of Glens Falls at the time of his death, and had been a director of

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that bank and of the banks of which it was the successor for many years. He was president of the Yorke Shirt Company, and had been a member of the board of education of Glens Falls and a trustee of the Presbyterian Church.

On June 28, 1855, he was married to Maria Mayo, of Warwick, Massachusetts, who died several years ago. He is survived by two sons—Louis M. Brown, of Glens Falls; Frank R. Brown, of San Antonio, Texas; and a daughter, Mrs. Fred A. Kilmer, of Glens Falls.

Judge Brown joined the New York State Bar Association in 1876 and continued his membership until the time of his death. He served the association on several committees, and was for eight years a member of the executive committee.

In politics he was a Democrat, and for many years prior to his death he was universally considered to be a leader of his profession not only in his own county but in that section of the State.

Delcour Stephen Potter was the son of Stephen and Amanda Haskins Potter. He was born in Coveville, Saratoga county, April 19, 1843, and was one of the best known lawyers in Northern New York. When a boy he removed with his parents to Fort Edward, where he attended and was graduated from the Fort Edward Collegiate Institute. At the age of nineteen years he was assistant paymaster in the United States navy, and at the close of the war entered the law office of Judge Stephen Brown, of Glens Falls. After admission to the bar he began practicing in Schuylerville, where his parents had removed. In 1877 he was counsel in the celebrated Jesse Billings case.

He was assistant to Canal Commissioner Barkley, and during the years of 1880, 1881 and 1882 represented the Saratoga county district in the assembly. In 1889 he located in Glens Falls and formed a partnership with Harry A. Howard, and

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later with J. A. Kellogg. The law firm of Potter & Kellogg was widely known.

At the time of his death, Judge Potter was United States commissioner for his district. For several years he was the representative of the state comptroller for collection of the inheritance tax for the several counties of his district.

During A. B. Colvin's two terms as state treasurer, Mr. Potter was the capitol paymaster. He was a member of the 1843 Club, composed of many prominent men, such as Hon. David B. Hill, Judges of the Court of Appeals Edgar M. Cullen and John Clinton Gray, ex-Senators Amasa J. Parker and I. V. Baker, Deputy Comptroller Willis T. Merriman and Anthony N. Brady.

Judge Potter was a staunch Republican. He was a member of Senate Lodge, Free and Accepted Masons; Glens Falls Chapter, Royal Arch Masons; Washington Commandery, Knights Templar; Oriental Temple; Mystic Shrine, and was also affiliated with the Elks of Glens Falls.

Through the efforts of Judge Potter the Saratoga Battle Monument was erected in Schuylerville, the corner stone of which was laid in 1877. He was treasurer of the Saratoga Battle Monument Association.

Judge Potter became a member of the New York State Bar Association during the first years of its existence, and was a regular attendant at its meetings. His circle of acquaintanceship was very large, and no man in his section of the State was better known or better liked.

Judge Potter married Anna Mary McNaughton, of Schuylerville, whose death occurred several years ago. He is survived by a son, Malcolm S. Potter, and a daughter, Miss Bessie F. Potter.

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Judge Potter died at his residence in the city of Glens Falls, after a short illness, on the 4th day of August, 1908.

William L. Kiley, county judge and surrogate of Warren county, was born in the town of Chester, Warren county, New York, June 27, 1869, and died at Glens Falls, New York, October 24, 1909.

He was a son of William and Mary Kiley, and one of a family of seven children, five boys and two girls. John died when two years of age, and the three remaining boys achieved positions of prominence in the legal profession. M. H. Kiley is county judge of Madison county; James S. Kiley is at present deputy attorney general of the State of New York; and Edward A. Kiley is a prominent practicing attorney in Canastota.

Until eighteen years of age, Mr. Kiley attended the Fish street district school at Riverside, and it was while in attendance at this school that he became possessed of the desire to study law. Leaving the district school he came to Glens Falls, where he entered a private school conducted by Prof. E. O. Sylvester. It was here that his marked mentality attracted the attention of both professor and fellow-students, as well as all others who came in contact with the boy who was destined to become a leader in his profession. It was young Kiley's desire to further pursue his studies, and in order that he might do this he taught school for two years in the northern part of the county. At the expiration of this time he entered Cazenovia Seminary, from which institution he graduated in the year 1892.

Returning to Glens Falls he entered the law office of Col. H. A. Howard, where he pursued with diligence the study of the law. In the year 1895 he was admitted to the bar, and the following year married Miss Belle Straight, daughter of Mr. and Mrs. Henry Straight, of North Creek.



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Shortly after his admission to the bar, Mr. Kiley formed a partnership with George S. Raley, under the firm name of Raley & Kiley. This partnership continued until Mr. Kiley's death, a period of nearly fifteen years. The business of the firm gradually increased until it grew to be one of the largest and most noted in Northern New York.

In 1901, Mr. Kiley joined the Bar Association, and was a member in good standing at the time of his death, having been at one time a member of its standing committee on admissions.

Politically, Mr. Kiley had always been a staunch Republican. In 1900 he was elected district attorney, which position he held for two terms. In 1906 he was elected county judge and surrogate. As a lawyer, Mr. Kiley was one of the leaders of his profession. Learned in the knowledge of the law, brilliant and forceful as an orator, friendly and congenial, Mr. Kiley enjoyed the friendship of all who knew him. As a trial lawyer he had but few equals, and in this branch of the legal profession he was blessed with far more than ordinary ability.

His short but brilliant career stands as a shining example of what may be accomplished under our institutions by a high order of ability, combined with indefatigable industry. His rewards were self earned and well deserved. He rose rapidly from the ranks to a position of first command. He assumed burdens and responsibilities which were great, but which he carried and discharged with honor to himself and to the entire satisfaction of all those by whom he was trusted. He was a thorough lawyer. His knowledge of the law was broad, but he never relied either upon his learning or his resourcefulness, but gave to each of his cases careful study, and always made thorough examination in each instance of the facts and of the law.

In his forensic battles he was vigorous to the extreme, but

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his shafts were not poisoned, and after the smoke had cleared away, no bitterness could rankle in the breasts of his opponents. As an orator he stood at the head, and was a high type of that race of men which has given to the world such word painters as Daniel O'Connell and Edmund Burke. As a judge he was just, but merciful, and no decision that he made can be under the slightest suspicion of being dictated by self-interest.

The foregoing are some of the most prominent of the many distinguished members of the Warren county bar who have been prominent in the past, but who are with us no more. Of the present members, Hon. Andrew J. Cheritree undoubtedly stands at the head. He was born in Greene county, New York, in 1830. He came to Warren county in 1854; was supervisor of the town of Luzerne for several years; was appointed provost marshal at the close of the war of the rebellion; served as school commissioner for about two years, and was subsequently appointed collector of internal revenue; was elected district attorney in 1871 without opposition, and county judge in 1882 by a large majority. He held the office of county judge until 1900, having served three terms of six years each, for the last one of which he was elected without opposition. In 1900 he laid down the duties of this office by reason of the age limit. Although in the full vigor of manhood mentally and physically, he was compelled by this unwise provision to relinquish this office. We are thankful, however, that he is still preserved in all of his strength and vigor, and although somewhat retiring from the more strenuous labors of the profession he acts as a wise and safe counsellor, a shining example of the best product of long years of legal judicial training and practice.

The following is a list of the presiding judges of the county court, originally the court of common pleas, from the time of

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the organization down to the present time, with the dates of their respective incumbences:

1813-1820, William Robards; 1820-1826, Halsey Rogers; 1827-1828, Joseph W. Paddock; 1828-1832, Horatio Buell; 1832-1837, Seth C. Baldwin; 1837-1845, Hiram Barber; 1845-1847, Halsey R. Wing; 1847-1851, Enoch H. Rosecrans; 1851-1863, Orange Ferris; 1863-1871, Stephen Brown; 1871-1882, Isaac J. Davis; 1882-1900, Andrew J. Cheritree, 1901-1906, Lyman Jenkins; 1906-1909, William L. Kiley; 1909, Lyman Jenkins.

Judge Kiley died October 24, 1909, and ex-Judge Lyman Jenkins was appointed by Governor Hughes to fill the vacancy.

The following is a list of surrogates of the county from its organization until 1847, when the office was consolidated with the office of county judge: 1813-1815, Robert Wilkinson; 1815-1820, Thomas Pattison; 1820, J. W. Paddock; 1820-1822, John Beebe; 1822-1827, Allen Anderson; 1827-1835, Abraham Wing; 1835-1840, Seth C. Baldwin; 1840-1845, Orange Ferris; 1845-1847, Thomas S. Gray.

The following is a list of the present members of the Warren county bar.

Glens Falls: L. H. Aldrich, Edward M. Angell, Eugene L. Ashley, J. H. Bain, J. H. Barker, Louis M. Brown, Hon. W. M. Cameron, Walter A. Chambers, Hon. Andrew J. Cheritree, Beecher S. Clothier, Jerry M. Cronin, Hon. John L. Cunningham, Hon. Loyal L. Davis, T. I. Dillon, Calhoun S. Enches, D. J. Finn, A. N. C. Fowler, Henry A. Howard, Hon. Lyman Jenkins, county judge and surrogate; Daniel F. Keefe, Joseph A. Kellogg, James S. Kiley, Charles F. King, H. Prior King, Thomas S. McArthur, Leonard B. McFarren, C. M. Merrill, H. L. Mickle, Frank D. Morehouse, Hor-

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ace F. Palmer, C. R. Patterson, George S. Raley, J. Ward Russell, Edwin R. Safford, John E. Sawyer, J. Edward Singleton, Frank M. Starbuck, E. L. Stearns, Frank H. Streeter, T. D. Trumbull, Jr., Archie C. Taylor, H. W. Williams, S. M. West.

Warrensburg: Lewis E. Crandall, Fred L. Hamilton.

Chestertown: Stanley H. Bevins, Charles P. Coyle, John H. Cunningham, district attorney.

Caldwell: Robert Imrie, Daniel F. Imrie.

J. A. KELLOGG.

Glens Falls, New York.

### HAMILTON COUNTY

Hamilton county was created by an act of the legislature April 12, 1816, its territory being taken from the great county of Montgomery. Its county seat is Lake Pleasant.

First judges of the county court, with dates of their appointment, have been: Richard Peck, 1838; John Durham, 1847; Richard Peck, 1851; Cyrus H. Brownell, 1855; William H. Peck, 1859; Ozariah Morrison, 1863; Richard Peck, 1863; Robert P. Anibal, 1871; Lewis Brownell, 1877.

Surrogates, with dates of their appointment were: Thomas H. Kline, 1838; Isaac Brown, 1840; Isaac J. Vanderwarker, 1843; William R. Van Arnum, 1846.

District attorneys, with the dates of their appointment or election, have been: G. R. Parbut, 1841; Isaac I. Vanderwarker, 1843; Cyrus H. Brownell, 1845; Samuel B. Salisbury, 1847; Richard Peck, 1849; Samuel K. Peck, 1852; Cyrus H. Brownell, 1852; Robert G. Ostrander, 1855; James H. Brownell, 1861; Willard W. Locke, 1864; Jacob McIntyre, 1867; James H. Brownell, 1870; Thomas J. Rhodes, 1879.

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### OSWEGO COUNTY

On the first day of March, 1816, the legislature passed an act forming the county of Oswego out of Oneida and Onondaga. Oswego village made a successful claim to be declared the county seat, but the village of Pulaski was able to secure a division of honors with the more important town. Barnet Mooney was commissioned first judge; Henry Williams, Smith Dunlap, Peter D. Hugunin, David Easton and Edmund Hawks, judges; Elias Brewster, surrogate; John Adams, county clerk; and John S. Davis, sheriff. The first court of common pleas was held in the school house in Oswego village, and Luther Badger, Abraham P. Vosburg, John Grant Jr. and Thomas Smith were admitted to practice. The clerk's office was in the residence of the clerk, and it was kept in private houses or offices for forty-five years, alternately every three years between Oswego and Pulaski. Not before 1823 did the judges of the supreme court think Oswego of sufficient importance to justify the holding of the circuit within it. The first circuit was held August 20, 1823, and four cases were tried.

It was not until 1818 that the county felt strong enough in population or in wealth to consider the erection of a court house. In that year a frame building was put up for court purposes in Oswego, and a brick building for the same purpose in Pulaski. Nathan Sage, Levi S. Burr, Richard Goodell, Abner P. Spencer and Alvin Bronson were commissioners to superintend the erection of the building in Oswego, and the Pulaski building was put up under the supervision of the building committee consisting of Simon Leacham, John S. Davis, and Ebenezer Young. In 1853 a jail was erected in Oswego,—the old stone structure which lasted until the completion of the new jail in

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1888. The jail now in use is built upon modern plans, and is one of the best of the kind in the state, its cost being some \$30,000.

In 1858 a new court house was ordered for Oswego, and repairs provided for the court house in Pulaski. Both these works were carried out in the years 1859 and 1860. The court house in Pulaski was enlarged and became a handsome and commodious structure. In Oswego the court house was located, like its wooden predecessor, on the public square. It was built of Onondaga limestone, having a large main building two stories high, with a two-story projection on the north front and a one-story projection on each side. A small one-story brick building nearly in front of the court house was the county clerk's office. Until 1853 there was no jail in Oswego, the city lock-up being used for occasional prisoners, more prominent ones being sent to Pulaski. In that year a substantial stone building was erected for jail purposes, a two-story structure with a high basement.

Following are the names of the first judges of the court of common pleas of the county, with the years of their appointment: Barnet Mooney, 1816; John Grant, Jr., 1820; Joel Turrell, 1828; David P. Brewster, 1833; Samuel B. Ludlow, 1841.

County judges from 1846 to the present time, with the dates of appointment or election, have been: Orla H. Whitney, 1847; Ransom H. Tyler, 1852; Sylvester C. Huntington, 1856; John C. Churchill, 1860; Ransom H. Tyler, 1864; Cyrus Whitney, 1868; Cyrus Whitney, 1872; Newton W. Nutting, 1878; Charles A. Avery, 1883; Maurice L. Wright, 1884 and 1889; James R. O'Gorman, 1892; Merrick Stowell, 1893.

Special county judges have been: Benjamin F. Rhodes, 1854; Dennis D. McCoon, 1857; De Witt C. Peck, 1860; James W. Fenton, 1863 and 1866; Andrew Z. McCarty, 1869; John

## HISTORY OF NEW YORK

Preston, 1872; Henry A. Brainard, 1875; John Preston, 1878; James W. Fenton, 1881 and 1884; John Preston, 1887 and 1890; Irving G. Hubbs, 1893.

Surrogates of the county have been: Elias Brewster, 1816; Abraham P. Vosburgh, 1817; Orris Hart, 1819; Chester Hayden, 1821; John A. Davis, 1823; Joseph W. Helme, 1826; Orville Robinson, 1830; Joseph Torrey, 1838; Joel Turrill, 1843; Orris Hart, 1845; William P. Curtis, 1846; James Brown, 1852; Amos G. Hull, 1856; Timothy W. Skinner, 1863 and 1872; Henry L. Howe, 1867; Francis David, 1884.

District attorneys since 1820, with dates of appointment or election, have been: James F. Wright, 1820; William B. Beach, 1821; David P. Brewster, 1829; Abraham P. Grant, 1836; Orville Robinson, 1841; Leander Babcock, 1843; William Duer, 1845; Ransom Tyler, 1847; John B. Higgins, 1851; Archibald N. Ludington, 1854; John C. Churchill, 1857; George G. French, 1860; William H. Baker, 1863; Sylvester C. Huntington, 1866; William H. Baker, 1866; Newton W. Nutting, 1870; John J. Lamoree, 1873; Benjamin F. Chase, 1879; Nathan B. Smith, 1882; Sheldon B. Mead, 1885; Merrick Stowell, 1888; Charles W. Avery, 1891; Nevada N. Stranahan, 1894.

### TOMPKINS COUNTY

As originally organized Tompkins county comprised portions of the counties of Seneca and Cayuga. The last two mentioned had been successively derived from Herkimer, Montgomery and Albany. The early history of Tompkins is therefore comprised in the histories of the counties to which its territory originally belonged. Tompkins was erected April 17, 1817. Its first judge was Oliver C. Comstock; its first surro-

## LEGAL AND JUDICIAL

gate, Andrew D. W. Bruyn; its first sheriff, Herman Camp; its first district attorney, David Woodcock.

The act of the legislature which organized the county designated Ithaca as the county seat, upon condition that the town should provide a site for the county buildings and raise the sum of \$7,000 to erect the same. These conditions were fulfilled, and in 1818 the building for the court house and the jail was erected and ready for occupancy. This old court house was sufficient for its purpose until 1854, when it had outlasted its usefulness. A more modern structure was erected on the same site under the supervision of a building committee consisting of Stephen B. Cushing, Samuel Giles and Ernest Mack, at a cost of \$12,154. It was a commodious brick structure and adjoining it was the substantial stone building for the jail erected in 1850. Measures were advocated for the erection of a new structure in 1894, the building of 1854 no longer being adequate for its purpose.

The first court of general sessions was held in May, 1817. John Sutton, senior judge, presided, and associated with him on the bench were Thomas White, Richard Smith and John Ellis, judges and justices of the peace, and Charles Bingham, Parley Whetmore, John Bowman and William Wigton, assistant justices. The business of the court was not of important character, bills of indictment being presented against several persons for minor offences, such as theft, petty larceny, assault and battery. The first petty jury was organized at the September term in 1817, and the first case tried by this jury was an indictment against several individuals who were charged with riot and, being found guilty, were fined ten dollars and five dollars respectively.

The first court of common pleas was held in the meeting house near the village of Ithaca on the first Tuesday in May,



## HISTORY OF NEW YORK

1817. John Sutton was the senior judge, and on the bench with him were Richard Smith, Thomas White and John Ellis, judges, and with William Wigton, Charles Bingham and John Bowman, assistant justices.

The first judicial officers of the county were: first judge, Oliver C. Comstock, appointed April 10, 1817; surrogate, Andrew D. W. Bruyn, appointed March 11, 1818; sheriff, Herman Camp, appointed April 11, 1817; district attorney, David Woodcock, appointed April 11, 1817; clerk, Archer Green, appointed April 11, 1817.

County judges have been: Oliver C. Comstock, 1817; Richard Smith, 1818; A. D. W. Bruyn, 1826; Amasa Dana, March 16, 1837; Henry D. Barto, February 18, 1843; Alfred Wells, 1847-1851; Douglas Boardman, 1851-1855; Samuel P. Wisner, 1855-1859; Henry S. Walbridge, 1859-1867; Mills Van Valkenburg, 1867-1874; Marcus Lyon, 1874-1891; Bradford Almy, 1891.

Special county judges were authorized by the legislature in 1852 and the following persons have held the office: Jerome Rowe, 1852-1863; Arthur S. Johnson, 1862-1871; George W. Wood, 1871-1872; Jesse M. McKinney, 1873-1877; Edward A. Wagner, 1877-1881; Jared T. Newman, 1881-1884; John Tyler, 1884-1889; Judson A. Elston, 1889-1892; James L. Baker, 1892-1894.

Surrogates have been: Andrew D. W. Bruyn, 1817; Edmund G. Pelton, 1821; Miles Finch, 1823; Charles H. Humphrey, 1831; Evans Humphrey, 1834; Arthur S. Johnson, 1838; George G. Freer, 1843.

District attorneys of the county have been: David Woodcock, 1813; Amasa Dana, 1823; Samuel Love, 1837; Benjamin G. Ferris, 1840; Alfred Wells, 1845; Arthur S. Johnson, 1847;

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Douglas Boardman, 1847; William March, 1850; John A. Williams, 1853; Marcus Lyon, 1856; Harvey A. Dowe, 1864; Samuel H. Wilcox, 1864; Merritt King, 1867; Samuel D. Halliday, 1873; Simeon Smith, 1875; David M. Dean, 1876; Clarence L. Smith, 1882; Jesse H. Jennings, 1883 and 1891.

### LIVINGSTON COUNTY

The county of Livingston was erected from parts of the counties of Ontario and Genesee by act of the legislature February 23, 1821. At this time there were twelve towns in the territory. Commissions were issued to Gideon T. Jenks as sheriff, James Ganson as clerk, James Rosebrugh as surrogate, and George Hosmer as district attorney. A month later Moses Hayden was commissioned as first judge.

Three commissioners—Gamaliel H. Barstow, Archibald S. Clark and Nathaniel Garrow—were designated to determine the site for the court house and jail and several candidates for the honor of being the county seat immediately sprang up. Finally Geneseo was decided upon for the reason that the town was near the geographical center of the county, and was the place of the largest commercial resort. In population Geneseo had then about sixty-five hundred. A suitable lot for the court house and jail was duly conveyed to the supervisors, and pending the construction of these buildings prisoners were confined in the jail in Canandaigua.

William Wadsworth, Daniel H. Fitzhugh and William Markham were commissioned to superintend the construction of the public buildings. Until the court house should be ready it was provided that the courts should be held in the brick academy building at Geneseo, a two-story brick edifice. The site

## HISTORY OF NEW YORK

for the county buildings, consisting of something over four acres of land, was given to the county by William and James Wadsworth, to be used as a public square and promenade, and for the site of the court house and jail. The supervisors determined that \$9,000 should be raised for the purpose of erecting and finishing the buildings, but later on it was found that more money was required, and ultimately the buildings cost \$11,000. The court house was ready for the convening of the court in May, 1823.

The first court of general sessions, the first court of record held in the county, met in the brick academy on the last Tuesday of May, 1821. On this occasion there were present Moses Hayden, first judge, and Matthew Warner, Jeremiah Riggs and Leman Gibbs, judges.

The first indictment and trial was the case of the People vs. Mary DeGraw for assault and battery with intent to murder. On the trial of the case the jury returned a verdict of guilty of assault and battery, but not guilty of the intent to murder. It appears from the records that the first commitment was that of May Brown, who was convicted at this term and sentenced to the Ontario county jail for thirty days. The first term of the court of common pleas was also held on the last Tuesday of May, 1821. Among the attorneys admitted to practice in the court were Samuel Miles Hopkins, George Hosmer, Felix Tracy, John Dickson, Orlando Hastings, Charles H. Carroll, Willard H. Smith, Augustus A. Bennett, Ogden M. Willey, Hezekiah D. Mason and Melancthon W. Brown.

At the May term of the court of common pleas, in 1823, Charles H. Carroll, first judge, presiding, the new court house was duly opened. A county seal was ordered, the design showing a deer, with the name of the county.

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County judges, with the dates of their appointment or election, have been: Moses Hayden, 1821; Charles H. Carroll, 1823; Hezekiah D. Mason, 1829; Willard H. Smith, 1832; Scott Lord, 1847 and 1851; George Hastings, 1855 and 1859; Solomon Hubbard, 1863 and 1867; Samuel D. Faulkner, 1871 and 1877; D. W. Noyes, 1878; E. A. Nash, 1878, 1884 and 1890; Edward P. Coyne, 1895 and 1896; William Carter, 1902 and 1908.

Surrogates, with the dates of their appointment or election, have been: James Rosebrugh, 1821; Samuel W. Spencer, 1832; Benjamin F. Angel, 1836; William H. Kelsey, 1840; Benjamin F. Angel, 1844.

District attorneys, with the dates of their appointment or election, have been: George Hosmer, 1821; Orlando Hastings, 1824; George Hosmer, 1824; Calvin H. Bryan, 1836; A. A. Bennett, 1836; George Hastings, 1839; Amos A. Hendee, 1847; William H. Kelsey, 1850; James Wood, Jr., 1853; Amos A. Hendee, 1856; Gershom Buckley, 1859; George J. Davis, 1862 and 1865; James B. Adams, 1866; Edwin A. Nash, 1869 and 1872; Daniel W. Noyes, 1875; C. J. Bissell, 1878; John R. Strang, 1878 and 1881; George W. Daggett, 1884 and 1887; Lubert O. Reed, 1890; Fred W. Noyes, 1893; William Carter, 1893; Charles H. Rowe, 1896 and 1899; John F. Connor, 1902 and 1905; Frank K. Cook, 1908.

### MONROE COUNTY

Monroe county began its history as an independent organization February 23, 1821, when the bill creating the county was passed by the legislature. It was taken part from Ontario and part from Genesee counties. At its organization there were

SAMUEL L. SELDON.

(1800-1876).

Lawyer and Jurist; First Judge Court of Common Pleas,  
Monroe County, 1831-37; Justice Supreme Court, 1847-55; Judge  
Court of Appeals. 1855-62.





**Samuel L. Selden**





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fourteen towns within the territory, the principal one being Rochester. For the county building in which should be housed the courts and county offices, a lot located in the town of Rochester was given to the county by Colonel Nathaniel Rochester, Colonel William Fitzhugh and Major Charles Carroll, who were pioneers in the settlement of this territory, coming from their homes in Maryland on horseback in 1800. The site which was thus acquired by the county has been used for county purposes to the present time. The corner stone of the new building was laid September 4, 1821, and the structure completed in the following year. Built mainly of bluestone with red sandstone trimmings, the court house was a handsome structure forty-four feet by fifty-four feet, with two wing walls. It had two parts, each with a projecting portico supported by four Ionic columns. The south part of the building had two stories and a base, while the lowest story of the north part, which stood on a slope, was a full basement. Eventually that part was used as the county jail, although at first prisoners were confined in the building on North Fitzhugh street, then Hughes street, afterwards used as barracks.

In less than thirty years—in 1850—the first court house had become inadequate for the use for which it was designed, and was taken down to make way for its successor. It was decided to unite in one building accommodations for the municipal officer of Rochester with those of the county, and a building which ultimately cost about \$62,000 was erected. The foundation and portico pavement of the building were of Onondaga limestone. Above the basement the structure was of brick, two stories high, with four stone columns to uphold the roof of the portico. The edifice was surmounted by a double dome, upon the top of which stood a figure of justice. The corner stone

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was laid on June 20, 1850. In December, 1851, the building was completed, and for twenty-four years, until 1875, it was used by the county and city together; in that year the municipal offices were removed into the new city hall of Rochester.

This second court house lasted until nearly the end of the century, but finally the necessity of a new structure became pressing, and a new building was determined upon, the corner stone being laid July 4, 1894. The modern court house, which cost over \$200,000, is larger than any of its predecessors, being one hundred and forty feet long and one hundred and sixty feet wide, with a high basement, and four stories. On the Main street front it is eighty-seven feet high. It is built of New Hampshire granite, smooth dressed, and with a heavy cornice of the same stone. Architecturally it is Romanesque in general design with four polished columns on the north front. The first floor is used by the county clerk, the county treasurer and the surrogate. The second and third floors are divided into court rooms and on the third floor provision is made for the law library. On the fourth floor are offices for the supervisors, district attorney and grand jury.

In 1832 it became necessary to replace the old jail with a new structure, and this was built on the island between the river and the Fitzhugh and Carroll race, where in later days, the Erie train house was built. Constructed of stone, one hundred feet long by forty feet wide, and provided with forty cells, it cost, including the land, \$12,500. This building in time became so dilapidated that prisoners could not be kept safely in it, and the jail of the present day was erected in 1885 at an expense of over \$56,000.

Prior to 1854, convicted criminals were confined in the jail, but in that year the Monroe penitentiary was erected at a

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cost of nearly \$23,000. Nearly destroyed by fire in 1865, it was rebuilt, and in 1873 large additions were made to it. The main part of the penitentiary proper was a four story brick structure with two wings; the cells for the men were in the northern part, and those for the women in the southern. A large addition, which was made in 1894, contains two hundred and fifty cells arranged in four tiers. In recent years an average of over five hundred inmates have been restrained in this institution.

On May 8, 1821, the first court of record was held in the county. As the court house was not ready for occupancy, the court sessions were held in designated buildings, the first one in the Ensworth tavern. The first officers of the county were: Elisha B. Strong, first judge; Timothy Barnard, Levi H. Clark, John Bowman, associate judges; Nathaniel Rochester, clerk; James Seymour, sheriff; Timothy Childs, district attorney, and Elisha Ely, surrogate.

The bar of Monroe county has ever been noted for its strength. On the bench and at the bar of the courts have been men of the highest professional character, and of great moral worth.

"Of the leading minds of New York State Monroe has furnished a liberal proportion, many of whom have attained distinction, while some have acquired eminence. They have been characterized by strict integrity as well as rare ability, qualities which have made for them a high place, not only in the courts, but also in the legislative halls both of the state and nation."

Among the early lawyers of the county were: Simon Stone, William G. Taylor, Ira Bellows, Ephraim Goss, William C. Rowley, William F. Cogswell, John M. Steele, Sanford E. Church, John Mastick, Francis Storm, Henry R. Selden. Frederick Whittlesey, who was appointed vice chancellor of the old

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1. "Land Marks of Monroe County, New York," p. 215.

## LEGAL AND JUDICIAL

chancery court in 1839, was a member of the older bar of the county.

Three representatives in the county have been chief judges of the court of appeals. Addison Gardiner, Samuel L. Selden and Sanford E. Church. In the office of the judge of the court of appeals, the county has been well represented by such judges as Addison Gardiner, Samuel L. Selden, Henry R. Selden, George F. Danforth, Theron R. Strong and E. Darwin Smith.

The bench of the supreme court has been represented by such men as George W. Rawson, James L. Angle, James A. Macomber, George F. Yeoman, John M. Davy, and William E. Werner.

County judges from the organization of the county with dates of their appointment and election have been: Elisha B. Strong, 1821; Ashley Sampson, 1825; Moses Chapin, 1826; Samuel L. Selden, 1831; Ashley Sampson, 1837; Patrick G. Buchan, 1844; Patrick G. Buchan, 1847; Harvey Humphrey, 1851; George G. Munger, 1855; John C. Chumasero, 1859 and 1863; Jerome Fuller, 1867 and 1871; William C. Rowley, 1877; John S. Morgan, 1883; John D. Lynn, 1888; William E. Werner, 1889; Arthur E. Sutherland, 1895; George A. Benton, 1906, and John B. M. Stevens, 1906.

Special county judges, with dates of their election or appointment have been: George W. Rawson, 1864; Pierson B. Hulett, 1873; John S. Morgan, 1879; Thomas Raines, 1884; William E. Werner, 1884 and 1888; John F. Kinney, 1890; Arthur E. Sutherland, 1893; George A. Carnahan, 1895; John B. M. Stevens, 1900, and John A. Barhite, 1906.

Surrogates of the county, with dates of their election or appointment, have been: Elisha Ely, 1821; Orrin E. Gibbs, 1823; Mortimer F. Delano, 1835; Enos Pomeroy, 1840; M. F.

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Delano, 1844; Simeon B. Jewett, 1845; Moses Sperry, 1847; Denton D. Shuart, 1851; Henry P. Norton, 1855; Alfred G. Mudge, 1859; William P. Chase, 1863; W. Dean Shuart, 1867; Joseph Adlington, 1883; George A. Benton, 1895, and Selden S. Brown, 1906.

District attorneys of the county, with dates of their election or appointment, have been: Timothy Childs, 1821; Vincent Matthews, 1831; Hestor L. Stevens, 1831; Horace Gay, 1836; Abner Pratt, 1836; Jasper W. Gilbert, 1843; Nicholas E. Paine, 1846; William S. Bishop, 1847; Martin S. Newton, 1850; Edward A. Raymond, 1853; Calvin Huson, 1856; Joseph A. Stull, 1859; William H. Bowman, 1862; Christopher C. Davison, 1865; John M. Davy, 1868; George Raines, 1871; Edward S. Fenner, 1877; Joseph W. Taylor, 1883; George A. Benton, 1886; George D. Forsyth, 1892; Stephen J. Warren, 1898, and Howard H. Widener, 1907.

### ERIE COUNTY

The early judicial and legal history of the county of Erie is contained in the history of the county of Niagara. From the time that Niagara county was organized in 1806 until Erie county was set off from it in 1820, Buffalo was the county seat of Niagara, and there the first county buildings were erected, and the first courts were held for the territory which was ultimately made into the two counties.

The first court house was erected by the association known as the Holland Company, in the years 1806-1809. It was a frame building located in the circle of land in the village of Buffalo, just east of Lafayette Square, and immediately in front of the site of the new court house which was afterwards built

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in 1817. The erection of the court house and the jail was made a condition by the legislature for the formation of the county of Niagara. It was not accepted by the judges of the county court until 1810, and then was not in a completed condition. The jail, which was also built by the Holland Company, was a stone building situated on the east side of Onondaga street, where in later years there has been a commercial building.

In December, 1813, when the village of Buffalo was burned by the British and Indians, the wooden court house was burned, but the jail was not seriously injured and was afterwards repaired. In the spring of 1816 work was begun upon a new court house to replace the one which had been burned three years previously, and this building, which was of brick, two stories high, was occupied early in 1817. It was considered an attractive piece of architecture, and was regarded as the largest and finest public building which up to that time had been erected in western New York.

When Erie county was set off from Niagara in 1820, Buffalo was continued as the county seat of the new county, and the court house and jail which heretofore had done duty for Niagara county were henceforth the property of Erie county. The court house was continued in use until 1850. It was increased in size, however, by an extension to the rear, and other improvements were made to it in 1826. The old jail was given up in 1833, when the remaining part of the court house block was acquired by the county and a new jail was built upon it. In 1846 a law was passed authorizing the supervisors of Erie county to erect a penitentiary or workhouse for the occupation of prisoners under sentence for minor offences. This was erected the following year, being substantially built of stone,

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and located on Fifth street between Pennsylvania and Wood streets, Buffalo.

By the middle of the century the old court house had become entirely inadequate for the proper transaction of the business of the county. Plans were therefore made to build a new court house on the southeast corner of the lot occupied by the old one, but with the frontage on Clinton street. This was a square brick building, three stories high, plain and simple in structure. It cost about \$17,000. For the succeeding quarter of a century it was used in conjunction with the old court house, courts being held in one or the other as happened to be most convenient. After the new court house was completed in 1876, this building was occupied by the Young Men's Christian Association.

After this it was not until the winter of 1871 when any movement was made to replace the county buildings by structures more modern in character, and sufficient in size for the use of the county and city, which were rapidly growing in population and in the increase of municipal, county and legal business to be transacted. As a result of serious consideration of the subject, the legislature was petitioned and an act was passed in April, 1871, for the erection of the new county building. Commissioners were appointed by the governor, and they selected Franklin Square, Delaware avenue and Franklin street, Buffalo, as the most suitable location. The estimated cost of the building was \$772,000, and ground was broken for the new structure August 21, 1871. In the following April the architect's plans for the building were adopted, and arrangements were made to proceed at once to the construction of the building. In October, 1873, changes were made in the original plans, providing for the use of granite in place of the softer substance

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first proposed, and for better interior finish and various improvements. These changes brought the total estimated cost of the building to \$1,207,234, and the legislature by an act decreed that the total cost should not exceed \$1,400,000.

The corner stone of this county and city hall, as the structure was named, was laid on June 24, 1872, with Masonic ceremonies conducted by Christopher G. Fox, grand master of the Free Masons of the state of New York, and an oration was made on this occasion by the Honorable George W. Clinton. During the years 1874 and 1875 the work was carried on, and it was completed early in 1876, so that the building was formally taken possession of on March 13 of that year. The occupation of the new building was made the occasion for impressive commemorative and dedicatory exercises. On the Saturday preceding the thirteenth day of March, the members of the bar met in the old court house and listened to a valuable and interesting paper by the Honorable James Sheldon, giving a history of that court house, and of its predecessor, which had been destroyed in 1813. Another interesting address was made by the Honorable George R. Babcock, who indulged in reminiscences of the judges and lawyers who had been identified with the court during a century of legal practice in the old court house. There were also brief addresses by the Honorable George W. Clinton and the Honorable James M. Smith. On the thirteenth of the month the judges and the members of the bar and others met again in the old court house and marched in procession to the new, where addresses were delivered by the Honorable S. S. Rogers, the Honorable A. O. Nichols, and the Honorable E. C. Sprague. On the same day the common council chamber in the building was taken possession of by the municipal authorities with appropriate proceedings.



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The building thus erected and dedicated was a magnificent structure of granite, massive in construction, harmonious in proportions, and conveniently arranged for the accommodation of the county and city business for which it was designed. Its architectural beauty has made it known throughout the state. In form it is a double cross with its main front upon Franklin street. Its total length parallel to Franklin street is two hundred and fifty-five feet, while its greatest width extending through the arm of the cross is one hundred and fifty-eight feet. It has been particularly described "as a rectangle one hundred and fourteen feet wide and two hundred and fifty-five feet long with six projections one at each end and two at each side, each projection being fifty-two feet broad and running out thirty feet from the main part." The area of ground on which the building stands is thirty-five thousand three hundred and ten feet square, only a little short of an acre.

In the basement of the building are located the furnaces and engines, and other appliances for the proper lighting and heating of the building. Above the basement are three stories. The first story is finished on the outside by rough granite, while the two super-imposed stories are in dressed granite. The parapet of the cornice is seventy-four feet high, while the highest parts of the slate roof reach to a height of one hundred and five feet. A large square central tower surmounts the entire structure. In the lower part of this tower is an immense clock with four dials nineteen feet in diameter, while at the supreme top is an observatory which towers two hundred feet above the street level. At the four corners of the tower are turrets on which stand statues sixteen feet high. These represent: at the northeast corner, justice; at the northwest, the mechanic arts; at the southeast, agriculture, and at the southwest, commerce.

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Within, the arrangements provide that, generally speaking, the county office, court rooms, and so on, are on the north side of the building, while the municipal offices are located on the south side. On the first floor are the offices of those officials with whom the public generally has most occasion to transact business, that is, the county clerk, the county treasurer and the city treasurer. On the second floor of the building are the court rooms, with two or three court rooms, however, on the third floor. On the third floor is the common council chamber and the supervisors' rooms. The common council chamber is a handsome apartment arranged in a style that has often called out more or less criticism of extravagance. The floors of the hall and corridor are of marble, the exposed woodwork is of black walnut, and the metal work is finished in bronze. The center of the building from top to bottom is occupied by a large open space around which are corridors extending north and south, while ample ventilation is secured by three openings through the two upper floors.

In 1877 and 1878 a new jail was erected on the west side of Delaware avenue, opposite the county and city hall. It was plainly built of gray stone, but of ample size, and cost about \$200,000.

The first board of commissioners in charge of the construction of the county and city hall consisted of James M. Smith, Dennis Bower and Albert T. Lansing, of Buffalo; Jasper B. Youngs, of Smithville; and Allan Potter, of East Hamburg. In May, 1872, by authority of the act of legislature, James Adams, Philip Becker and George S. Wardwell, of Buffalo, and John Nice, of Tonawanda, were added to the commission. In May, 1872, when James M. Smith was appointed judge of the superior court, he resigned from the commission; George W. Hayward, of Buffalo, was made commissioner in his place, and George S. Ward-

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well was chosen chairman of the board. With this single change the board of commissioners continued until the completion of the work.

Before the war of 1812 the only practicing attorneys settled in Buffalo were: Ebenezer Walden, Jonas Harrison, John Root, and Heman B. Potter. Later on came Jonathan E. Chaplin, Robert H. Tracy, James Sheldon, E. S. Stewart, Thomas C. Love, Ebenezer F. Horton and William A. Moseley.

When Erie was organized in 1821, the practicing lawyers in the county were John Root, Ebenezer Walden, Jonas Harrison, Heman B. Potter, James Sheldon, Albert H. Tracy, Thomas C. Love, Ebenezer F. Horton, Joseph W. Moulton, Philander Bennett, Jonathan E. Chaplin, Stephen G. Austin, and William A. Moseley. In the few years which immediately followed came Horatio Shumway, Henry White, Thomas T. Sherwood, Henry Slade, Joseph Clary, Sheldon Smith, Roswell Chapin and Major A. Andrews.

"These were the men, the pioneers of the profession, who gave it character and dignity, and for many years continued in active practice, one by one retiring from active life, their places taken by the able and eloquent lawyers who came afterwards, and worthily sustaining the high reputation always borne by the Erie County bar."<sup>1</sup>

In those early days the practice of riding the circuit, which was common in England, was adopted in this part of the country. It was the custom of eminent lawyers, especially those who had achieved reputation by successful practice, to accompany the circuit judges of the supreme court when those judges went upon circuit from county to county. Much of the practice of these lawyers was secured in this way. In some instances they were retained beforehand to assist in the trial of civil cases, or to de-

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1. "History of the City of Buffalo and Erie," by H. Parry Smith, vol. II, page 433.

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fend persons charged with crime. More frequently, inasmuch as it was known that they would be present in person at these terms of the circuit court, their retention was delayed until the court had assembled. Thus they were compelled to rely primarily upon such preparation as might have been made by the local attorneys who were employed there, and beyond that, extemporaneously, upon their general knowledge of the law. Such attorneys as Root, Potter, Sheldon, Love and Tracy, thus attended all the court terms of the counties of Chautauqua, Cattaraugus, Genesee, and Niagara for the purpose of trying such cases as might fall to them.

The compensation which these lawyers of first rank were glad to receive at this time seems comparatively small in comparison with the fees which are now exacted by members of the profession of comparable standing with those early legal giants. In cases of considerable importance where the preparations for the trial had been made by local attorneys, the counsel charges might be from twenty to twenty-five dollars for the trial. When several days were employed in the preparation and trial, fifty to one hundred dollars might be charged, but these fees were considered to be the limit. The services often included the summing up to the jury, in which knowledge of law and oratorical efforts were displayed in a manner that would do credit to the most eminent practitioners of the present day.

Samuel Wilkeson, of Buffalo, was judge of the court of common pleas of Niagara county at the time when Erie county was created from Niagara. He had been appointed November 10, 1820, and retained the office after the organization of Erie county in the following year. By the constitution of 1820 his judgeship expired December 31, 1822, and Ebenezer Walden succeeded him, serving until April 4, 1828. Successive judges of this court

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until the provisions of the constitution of 1846 went into effect on the first Monday of July, 1847, were: Thomas C. Love, Philander Bennett, James Stryker, Joseph Clary, Nathaniel K. Hall, and Frederick P. Stevens. Under the new constitution by which county judges were substituted for the judges of the court of common pleas and became elected instead of appointed officials, the following were judges of this court to the end of the nineteenth century: Frederick P. Stevens, Jesse Walker, James Sheldon, Stephen Lockwood, Roswell L. Burrows, Albert Haight, George W. Cothran, William W. Hammond, Joseph V. Seaver and Edward K. Emory.

By act of the legislature of May 20, 1880, the municipal court of the city of Buffalo was created. Immediately upon the passage of the act the mayor appointed two municipal court judges who took office in July of that year, one of these incumbents being appointed for five years and one for six years. The municipal court judges have been: George S. Wardwell, William W. Brown, Louis Braunlein and Charles W. Hinson.

By the terms of the constitution of 1846, the office of surrogate was abolished in all counties having four thousand or less in population, the duties of the office being transferred to the county judges. Erie county, with a population in excess of four thousand, still continued to elect its surrogates. From 1808 until the close of the century, the surrogates of Erie county have been: Archibald S. Clarke, Otis R. Hopkins, Amos Collender, Ebenezer Johnson, Roswell Chapin, who held office while the territory of Erie county was part of Niagara and who continued as surrogate of Erie after its erection; Ebenezer Johnson, Martin Chittenden, Israel T. Hatch, Samuel Caldwell, Thomas C. Love, Peter M. Vosburg, Charles D. Norton, Abram Thorne, Charles C. Sev-

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erance, Jonathan Hascoll, Horatio Seymour, Zebulon Ferris, Jacob Stern and Louis W. Marcus.

The following persons have held the office of district attorney in the counties of Niagara and Erie throughout the nineteenth century: Charles G. Olmstead, Heman B. Potter (appointed for Niagara 1819 and continued in Erie); Thomas C. Love, George P. Barker, Henry K. Smith, Henry W. Rogers, Solomon G. Haven, George P. Barker, Benjamin H. Austin, Charles H. S. Williams, John L. Talcott, Albert Sawin, James M. Humphrey, Freeman J. Fithian, Cyrenius C. Torrence, Lyman K. Bass, Benjamin H. Williams, Daniel M. Lockwood, Robert C. Titus, Edward W. Hatch, George T. Quinby and Daniel J. Kenefick.

By the act of the legislature of 1839, the recorder's court was created for the city of Buffalo, the appointment of the recorder being vested in the governor. The term of office was four years, and the first two incumbents were Horatio S. Stow from 1840 to 1844, and Henry K. Smith from 1844 to 1848. By the constitution adopted in 1846 this office was made elective and thereafter it was held by Joseph G. Masten from 1848 to 1853, and George W. Houghton, from 1852 to 1854. By legislative act of 1854, the court was reorganized and merged into the superior court, with three judges whose terms of office were fixed as six years. Provision was also made that the incumbent of the office of recorder at the time of the reorganization should serve as one of the judges of the superior court for the remaining portion of the term for which he had been elected. Recorder Houghton was thus entitled to serve two years as a judge of the new superior court.

At the first election under the new law, George W. Clinton and Isaac A. Verplanck were chosen as the other judges, Judge

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Clinton securing the full term of six years, and judge Verplanck that of four years. The judges of this reorganized court from 1854 until the end of the century were: George W. Houghton, Isaac A. Verplanck, George W. Clinton, Joseph G. Masten, James M. Humphrey, James Sheldon, James M. Smith, Charles Beckwith, Robert Titus, and Truman C. White. This court was abolished and its powers vested in the supreme court by the constitution of 1894.

Judge Masten died while in office in the spring of 1871, having served two terms and a half, or fifteen years upon this bench. Judge Verplanck died in the spring of 1873, and after he had served upon this bench a little more than eighteen years. At the time of his death Judge Verplanck had been chief judge of the court for three years, since 1870, and upon his decease Judge Clinton was appointed to fill that position. The term of Judge Clinton expired December 31, 1877, by reason of the disability of age; he had sat upon the bench continuously since his first election in 1854, a period of twenty-three years. Upon his retirement, Judge Sheldon was appointed chief judge of the court and held that position until the court was abolished in 1894.

The business and financial aspect of the development of the judicial institutions of the city and county has been often considered and has been a vital cause of discussion and disagreement. Especially has the enormous increase in cost of conducting the judicial business of the county been considered by those who were most familiar with the subject. One authority in treating of this subject in 1898 has said:

"What sum of money was expended at the date of the formation of Erie county or even at the time of the city incorporation for the main-

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tenance of courts is now impossible to state on account of the loss of records; but we are able to go back as far as the year 1853 (which is only forty-five years ago), and draw a comparison between that time and the present in this respect. In 1853 the salary of the county judges was sixteen hundred dollars; that of the surrogate fourteen hundred dollars. The cost of the sheriff and the district attorneys' offices was at that time about five thousand dollars. Jurors' certificates were charged as about ten thousand dollars, constables' certificates three thousand dollars and justices and court orders eighteen hundred and twenty-five dollars. The salary of the city recorder was two thousand dollars and that of his clerk seven hundred dollars; the salary of the chief justice was sixteen hundred dollars; in all a little less than five thousand dollars. In other words it is practically quite safe to state that the total cost of the courts in the county in 1853 was well within twenty-five thousand dollars. Twenty years earlier at the date of the incorporation of the city of Buffalo the amount must have been far less, while at the time of the formation of Erie county in 1821, the whole of this feature of county and village government was almost nominal.

"In those days the public officials served for far less salaries than at the present time, and were more than willing to do so, while many clerkships, stenographers' positions, etc., were unknown. In making up the foregoing total it should not be forgotten that nearly half of the gross sum expended was upon jurors' certificates. In comparison with the foregoing it is interesting to know the following salary list for 1897: two supreme court justices, fourteen thousand four hundred dollars; county judge, five thousand dollars; county judge stenographer, one thousand five hundred dollars; surrogate, his clerks and stenographer, fifteen thousand dollars; district attorney, two assistants, two clerks and stenographer, fourteen thousand dollars; sheriff and his assistants of various kind, eighteen thousand two hundred dollars; commissioners of jurors, deputy and stenographers, six thousand nine hundred dollars; five court criers, five thousand dollars, three court officers, three thousand dollars, making a total of eighty-three thousand eight hundred dollars.

"As in some sense connected with the administration of the law we may add the cost of operating the penitentiary, twenty-five thousand nine hundred and thirty-nine dollars; coroner, five thousand seven hundred dollars, county clerks and employees, forty-three thousand two hundred and sixteen dollars, clerk to coroner, physicians to penitentiary and physician to jail, seventeen hundred dollars, making seventy-six thousand five hundred and fifty-five dollars, or a grand total of one hundred and sixty thousand three hundred and fifty-five dollars; and this sum does not include the large sums expended for supplies of various kinds, the heavy



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costs of jurors and other court expenses, which would swell this sum to enormous proportions."<sup>2</sup>

Erie county has furnished to the state several justices of the supreme court; Seth E. Sill, Benjamin F. Green, James G. Hoyt, Charles Daniels, Albert Haight, Loran L. Lewis, Manly C. Green, Edward W. Hatch, Frank C. Laughlin, Robert C. Titus, and Truman C. White.

The first murder trial in the territory embraced in Erie county took place in June, 1815, when Erie was still Niagara. Charles Thompson and James Peters were accused. They had been soldiers in the regular army and had been sent out on a scout with one of their comrades. Coming upon the home of James Burba, they committed depredations, quarreled with the owner, and killed him. Two of the soldiers, Thompson and Peters, were apprehended, but the third escaped. Almost nothing has been preserved concerning the trial and execution of the two criminals but it is known that they were executed in August, in public, according to the custom of that time. Several companies of militia in command of General Warren guarded them to the scaffold. Glezen Filmore, then a young Methodist minister of the town of Clarence, preached the funeral sermon, and he was assisted in administering the last religious rites to the condemned men by the Reverend Miles P. Squier, pastor of the Presbyterian church in Buffalo.

When Erie was created in 1821 and its history as a county commenced, there was very little legal practice carried on of any kind whatsoever within its precincts. All the attorneys of the county were settled in Buffalo, and it is doubtful if a regular practitioner resided in the county at that date outside of the county seat. It is a matter of uncertain record that a cabinet

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2. "Our County and its People, a Descriptive Work on Erie County, New York," by Truman C. White, vol. I, p. 685.

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maker, Wales Emmons by name, who was settled in Springville, served as attorney to local litigants, and probably there were other practitioners of like character at other places outside of Buffalo. Emmons appears to have been a man of considerably more force of character than of legal ability, and he was at least ingenious in handling the cases of his clients. Some amusing stories have been told concerning him and one of them has been recorded by the Erie county historian.<sup>3</sup>

"He was employed to defend a petty action, and seeing that there was no successful defence to be made, and knowing the obtuseness of the justice, he rode out a few miles to Springville, to the dwelling of the justice a few days before the trial was to take place, and informed him that the defendant would withdraw and pay the cost, and to this the worthy justice assented, pocketed the cost, and noted the withdrawal in his docket. When the plaintiff and his counsel appeared at the trial they were calmly informed that the suit was withdrawn. 'Withdrawn,' shouted the pettifogger, 'why the defendant can't withdraw the case'. 'But he has withdrawn it', replied the justice with much dignity, 'he has withdrawn it, and paid the costs, and it is entered on my docket, and I will have nothing more to do with it.'"

In the spring of 1821, after the new county had been organized and almost before the new government was inaugurated, the second capital crime in the territory was committed, and the trial followed during the ensuing summer. The trial was most remarkable in the legal questions involved and it was also of a particularly interesting character by reason of the appearance of the famous Seneca Indian, Red Jacket, who made a noteworthy address. The circumstances of the crime were as follows:

A Seneca Indian, who had been nursed by a squaw named Kauquatau, died of a lingering disease in the spring of 1821. It was not possible to determine the cause of the death, but the Indian medicine man, attributed it to sorcery on the part of the

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3. "Our County and its People, a Descriptive Work on Erie County, New York," by Truman C. White, vol. I, p. 689.

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nurse, who thereupon, was found guilty and sentenced to death. The chief of the Seneca tribe, So-on-on-gise, commonly known to the white people as Tommy Jimmy, was appointed to be the executioner of the squaw. The Indians did not dare to have her killed off their reservation on land that was under the jurisdiction of the United States. But they induced her to come back from Canada, whither she had fled, and, plying her with liquor in the streets of Buffalo, inveigled her across the reservation line, which ran close up the village into the Indian territory. There Tommy Jimmy drew a knife and cut her throat, leaving her body where it fell, and striding off to the Indian village.

Early the following morning the crime was discovered, and it was easy to determine the guilt of Tommy Jimmy. The Indians set up a claim of sovereignty over their reservation, but this did not satisfy their white neighbors, who determined to bring the murderer to trial. A warrant was sworn out for his arrest, and an officer of the court, going to the reservation, prevailed upon Red Jacket to have the accused murderer appear before the justice in Buffalo the following day. True to his promise, Red Jacket brought in Tommy Jimmy. The office of the justice, Stephen G. Austin, was small, and the popular interest in the case had arisen to such a point that a large crowd of people was in attendance. Accordingly, the court was held on a lumber pile across the street from the justice's office. Briefly, the killing of the squaw was admitted, but it was declared that she was a witch, and deserved her fate, and that, inasmuch as she had been killed on the Indian reservation, the whites had no jurisdiction. Justice Austin committed the prisoner to jail for trial in a higher court, and the Indian was duly indicted.

At the June term of the Erie county oyer and terminer the trial took place. The court house was crowded with Indians and

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white men, and all the prominent attorneys of that time in that section of the state were in attendance. Good counsel had been procured for the accused and the defense was that the squaw was executed in accordance with Indian law and on Indian land. Red Jacket was prominent in support of the accused, and after several witnesses had been sworn he took the stand. His appearance was of the most dramatic character, and the prosecuting attorney made an effort to exclude him by asking him if he believed in God. "More truly than any one who could ask me such a question," was his impressive reply. When asked what rank he held in his nation he scornfully answered, "look at the papers which the white people keep most carefully, they will tell you what I am." In this declaration he was referring to the treaties by which the whites had secured land from the Indians. Like all the other Indian witnesses, he joined in admitting the murder, but justified it by the Indian law against witchcraft. When his views of witchcraft were ridiculed by one of the lawyers for the prosecution, he poured forth a defense in eloquent language which has been translated as follows:

"What! Do you denounce us fools and bigots because we still believe what you yourselves believed two centuries ago? Your blackcoats thundered this doctrine from the pulpit, your judges pronounced it from the bench, and sanctioned it with the formality of law, and would you now punish our unfortunate brother for adhering to the faith of his fathers and of yours? Go to Salem! Look at the records of your own government, and you will find that thousands have been executed for the very crime which has called forth the sentence of condemnation against this woman, and drawn upon her the arm of vengeance. What have our brothers done more than the rulers of your people? And what crime has this man committed, by executing, in a summary way, the law of his country, and the command of the Great Spirit?"

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4. This address was printed in the Albany Argus at that time, 1821. See also "The Life and Deeds of Sa-go-ye-wat-ha, or Red Jacket," by William L. Stone, p. 386.

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The result of the trial was a verdict against the prisoner, but it was conceded that the allegations contained in his plea were true. The court suspended judgment and the proceedings were removed by certiorari to the supreme court. At the August term of that tribunal in the same year, the case was brought up again, John C. Spencer and Attorney General Samuel A. Talcott, arguing in behalf of the people, and James J. Oakley appearing in behalf of the prisoner. The discussion led to a thorough examination of all the letters, treaties, documents and published history relating to the Indians from the time of the discovery of the American continent, and the court, confessedly admitting that there was considerable difficulty in properly deciding the question, took it up for mature consideration. In the end the prisoner was discharged by consent. The court was disinclined to make a decision recognizing the independent jurisdiction of the Indians in such cases, and yet at the same time was not able to deny to them the existence of a certain qualified sovereignty. It was furthermore clear that the case was not one of murder, as the Indians understood murder. Accordingly, the court took the middle course and allowed the prisoner to be liberated. Subsequently and as an outcome of this case, laws were passed placing the Indians under subjection to the same penalties for crimes as the white people.

Another remarkable affair of this period in the history of Erie county jurisprudence occurred in 1825. It was a tragedy which to the present time has not been forgotten, and in legal annals it has borne the title of the "Three Thayers." It appears that John Love, an unmarried Scotchman who was variously engaged as a sailor and a peddler, had accumulated some property and incidentally had gone in the business of money lending. Israel Thayer, with three sons—Nelson, Israel Jr., and Isaac,—

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lived in the town of Boston, and had borrowed money of John Love. In the autumn of 1824, John Love came from a sailing voyage on the lakes and took up his residence with the Thayers in Boston. He was never seen thereafter, but being of humble occupation and of vagrant employment, his disappearance was not particularly noticed for some time. Soon the members of the Thayer family suddenly seemed to be in more prosperous circumstances than they had ever been before, being well supplied with money, and in possession of a horse which had belonged to John Love and, representing that Love had made them their attorney, they attempted the collection of some debts that were due to him.

After a time the community became more than usually interested in the affair, and Love not yet appearing, suspicions arose that he might have been murdered by the Thayers. Accordingly, in February, 1825, a search was made for the lost man and after inquiries had been made of the Thayers concerning his whereabouts. Nelson and Israel Thayer were arrested. Further search was stimulated by the offer of reward for the recovery of the body of the missing man, and finally, in a shallow grave in the rear of the cabin of Israel Thayer Jr., the body was found, lightly covered with brush and dirt. Thereupon, the remaining son Isaac Thayer, and the father, Israel Thayer, were arrested.

At the Erie county oyer and terminer, April 19 and 20, 1825, the accused were brought to trial. Reuben H. Walworth, who was afterwards state chancellor and at that time was judge of the fourth district of the supreme court, presided. Upon the bench with him were Ebenezer Walden, first judge of the Erie county court of common pleas, and Associate Judges Russell, Douglass and Camp.

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District Attorney Heman B. Potter appeared for the People, and he was assisted by Sheldon Smith and Henry B. White, who was then numbered among the younger members of the bar. For the defense appeared Thomas C. Love, Ebenezer Griffin and Ethan B. Allen. The three sons were put on trial, but the father was not tried. With the evidence clear and strong against the prisoners, there was little opportunity for defense; all three were found guilty and sentenced to death, and subsequently they confessed their crime. The murder had been consummated on December 15, 1824, on which day Love was shot, and beaten on the neck with an axe until he was dead; then the body was buried. The sons agreed that their father did not participate in the crime.

On June 7 the death penalty was inflicted upon the three brothers in the presence of an enormous crowd of men, women and children, who had assembled from all the surrounding country. According to the custom, the militia preserved order upon the scene, there being a regiment of foot soldiers, two troops of horse and a section of artillery. It was estimated that from twenty to thirty thousand people assembled in Niagara Square in the vicinity of the three gallows. As on previous occasions, the Reverend Glezen Filmore preached the funeral sermon.

Seven years later, in 1831, another execution took place in Buffalo, and long lingered in the memory of the people of that generation as "the year the Holt was hung." Holt brutally murdered his wife by pounding her to death with a hammer in the rooms which they occupied over his store on Main street in Buffalo, in October, 1831. Justice was swift in his case, for he was tried and executed before the expiration of the ensuing month of November.

From the time that the courts became fully established in

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the county, the bar of Buffalo began to assume a prominence that fairly compared in every respect with the bar in any other section of the state. Upon the bench and bar were men of extraordinary personal character and of remarkable professional attainment, and many of them in the years to come attained to exceptional prominence in state and national affairs. Many of them were men who in any walk of life which they might have chosen to traverse would have become distinguished. They left imperishable records of honorable labor on the bench, of remarkable achievements at the bar, and brilliant success in the field of politics and public endeavor. The bench and bar of Erie county throughout the nineteenth century was of a pre-eminently high character, and the men who composed it were men of exceptional qualities of person and mind, of great average learning in their professions and possessed of natural talents which enabled them to rise to notable positions among their fellow citizens.

Writing of this early period, one of the historians of western New York has said:

"The period from 1830 to 1850 has often been characterized as the one in which the Erie county bar reached its highest eminence. By some older members the period of its greater brilliancy has been still further abridged to 1840-1845. It is certain that there were then settled in Buffalo an array of luminous lights in the legal firmament that could scarcely be surpassed in this state. The celebrated firm of Fillmore, Hall & Haven had been dissolved, and Mr. Hall had been elevated to the bench, but Mr. Fillmore still stood before jurors who listened and were swayed by his candid persuasive powers. The wit and tact of the junior member, William G. Haven, often prevailed where other methods might have failed. The old court house resounded with the fiery denunciations of William K. Smith, and Eli Cook, a younger, yet powerful advocate, enraptured his hearers with his eloquence. Other leading lights were Thomas T. Sherwood, John L. Talcott, George R. Babcock (partner with the Nestor of the profession, Heman B. Potter); Henry W. Rogers, (long district attorney,) Dyre Tillinghast, Benjamin H. Austin, and Seth E. Sill. Outside of Buffalo, Albert Sawin and Lafayette Carver, of



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Aurora; Wells Brooks and C. C. Severance, of Springville, and a few others enjoyed considerable practice and the confidence of their clients."<sup>5</sup>

"The celebrated firm of Fillmore, Hall & Haven had dissolved and its second member had gone upon the bench, but jurors were still occasionally swayed by the persuasive and yet candid advocacy of Mr. Fillmore, and often delighted by the wit and tact of William G. Haven. Then the old court house rang with the fiery denunciations of Henry K. Smith, whose dark features and fervid speech reminded one of the Cuban shore on which he was born. Then a young orator of eloquent yet commanding presence, lifted up his voice in tones of alternate pathos and scorn till men of both city and county willingly surrendered their hearts to the eloquence of Eli Cook. Then Thomas T. Sherwood fumed and fretted around the bar, and thundered in somewhat sledge hammer style, but all the while kept up an excellent understanding with the jury, forced his own ideas into them by main strength, and carried verdicts by the score. \* \* \* Mr. Sherwood seems to have been predisposed toward his over-whelming style of conducting a case, not only by his temper but by his judgment. He believed in pounding."<sup>6</sup>

Ebenezer Walden, the first judge of Erie county, arrived in Buffalo in September, 1806, when that city was the county seat of Niagara county. He was a native of Massachusetts, and a graduate from Williams College. For several years he was the only lawyer in New York state west of Batavia. When he arrived in Batavia he brought with him from one of his former neighbors and associates a letter of introduction in which he was spoken of as "a correct scholar, liberally educated, an attorney in the supreme court, and a gentleman who will be quite an accession to your society at Buffalo Creek." His attractive personality and his professional ability immediately brought him into prominence and established him favorably in the estimation of his fellow citizens. He was elected to the legislature in 1812, and was appointed the first judge of Erie county in 1823. In 1838 he was chosen mayor of the city of Buffalo, and performed

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5. "Our County and Its People, a Descriptive work on Erie County, New York," by Truman C. White, vol. I, p. 694.

6. "Centennial History of Erie County," by Crisfield Johnson, p. 432.

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the duties of that office with knowledge, ability, and impartiality. During the last years of his life he retired from active participation in professional and business pursuits, and died November 10, 1857, at the age of eighty years. Throughout his long life, most of which was passed in the village and city of Buffalo, he was honored and respected by all who knew him.

From the time when Judge Walden arrived in Buffalo, his only professional colleagues, until 1812, were Heman B. Potter, Jonas Harrison, and John Root.

Heman B. Potter was college educated, and read law in the office of the celebrated Elisha Williams, of Hudson, New York. He removed to Buffalo in October, 1810, and at once entered upon practice there. In 1819 he was appointed district attorney of Niagara county, two years before Erie county was formed, and until 1829 he performed the duties of that office with marked success. Aside from the district attorneyship he never enjoyed any political preferment. In his early life he associated himself with the Federalists and with the Free Masons, and this affiliation, it is believed, prevented his being further advanced in political life, for the reason that the Federalists were not politically in power in Western New York, and the anti-Masonic agitation of that generation was of powerful influence there. In private practice, however, he was extraordinarily successful, and he soon had more cases to argue than any of his rivals. He was a man of the kindest disposition, unimpeachable integrity, and great industry. "His addresses to the courts and jurors were pleasing in manner, his statements of law and fact clear and well arranged, and although he did not rise to the height of eloquence, his forensic efforts could not fail to satisfy a moderate ambition." The most celebrated prosecution in which he was engaged as district attorney was the trial of the

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Three Thayers for murder in the summer of 1825. In after years, Chancellor Walworth, who presided at the trial declared that he had never known a case so well prepared and tried. Continuing in active business until his death in 1854, Mr. Potter left a large fortune to his family, and an enviable reputation among his fellow citizens.

Jonas Harrison, another of the quartette of lawyers who were in Buffalo in 1812, had an excellent repute as a lawyer and a citizen, but left little of record behind him. He was one of the original Buffalo Harbor Company, and somewhat active in public affairs. The memory of the men of his generation ranked him with the foremost of the able pioneers. In 1820 he removed to Louisiana, and nothing is known concerning his life after that time.

John Root, another lawyer of this legal quartette, was a learned and able man, who retired from the practice of his profession some years before his death, which occurred in 1846. In general knowledge of law and equity and jurisprudence he was considered the equal of any of his contemporaries. He was a man of large, imposing appearance, and of particularly jovial and kindly temperament, ready at all times to advise the younger members of the bar, and familiarly known as Counsellor Root. He had an inveterate propensity for joking, and was a man of ready and sparkling wit, sharp at repartee and lively in fancy. Brilliant conversation peculiarly distinguished him, and by many of his associates it was considered that his qualities in this respect really overshadowed his high legal attainments and perhaps stood in the way of his professional advancement.

Many are the stories which have been recorded concerning him and they throw interesting sidelights on the man, his manners and his peculiar talents. He was not inclined to spare even

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the courts. On one occasion, when somewhat excited by liquor, he commented sharply on the adverse decision of the judge, declaring that it could only be compared with the celebrated decree of Pontius Pilate. "Sit down, Mr. Root, sit down," angrily exclaimed the judge, "You are drunk, sir." The old counsellor slowly sank into his chair, saying in rather low tones, but high enough to be heard by all around, "That is the only correct decision your honor has made during the whole term." It is needless to say that in the laugh which followed, Mr. Root escaped without further censure.

Upon one occasion the court of common pleas was held by the senior side judge, who, being without much experience, allowed the business to drag slowly. Taking advantage of his weakness, the lawyers who appeared made irrelevant motions and interminable speeches, and the presiding judge was wholly unable to control them. One morning before the court had opened, the judge, with several lawyers, among whom was Root, met in the court house hall, when the conversation turned upon the slowness of the proceedings. The judge remarked; "I only wish some way could be devised for shortening the lawyers' tongues." Root turned and quietly suggested: "Perhaps, your honor, the same object could be affected by shortening the judges' ears."

Soon after the close of the war of 1812, Albert H. Tracy, who was then a young man of only twenty-two years of age and just admitted to the bar, settled in Buffalo. Immediately he was recognized as a lawyer of marked ability and as a man of strong character. In 1818, when only twenty-five years of age, he was elected a member of congress, and twice thereafter re-elected, acquired a national reputation in that body of statesmen. In 1826 he was appointed a judge of the circuit court by Governor Clinton, to succeed William B. Rochester, but declined the office.

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In 1829 he accepted the nomination of the anti-Masonic party for state senator and was elected. At that time the senate was part of the court for the correction of errors, the highest judicial tribunal of the state, and as a member of that court Mr. Tracy had opportunity to display his thorough legal education and his remarkable ability, and he acquired a just and enduring fame. In 1833 he was re-elected to the senate for another term of four years, and during that period again he exhibited his remarkable judicial ability and his capacity for dealing with affairs of state. At the expiration of his senatorial term in 1837 when his fame and intellectual powers were at their zenith he retired from public life and thereafter devoted himself principally to his private affairs. When he died in 1859 he left a large fortune.

James Sheldon, who was also of this early period, and a partner of Albert H. Tracy, was a native of New Hartford, New York. Having received a classical education, he studied law with General Thaddeus Wood, in Onondaga Hollow. In 1815 he settled in Buffalo and remained in active practice of his profession in that city until 1832. His entire life was devoted to his professional work, and he never sought or accepted office or preferment of any kind. Upon the occasion of the ceremonies of farewell to the old court house in Buffalo on March 11, 1876, the Honorable George R. Babcock, in speaking of the lawyers of the early period of the Erie county bar, said of James Sheldon.

"He had a powerful and well compact body and acute intellect, an ardent temperament, and was exceedingly well prepared for his profession, and a thorough going practitioner. He had a large business in criminal cases, and a fair share of civil practice, and generally attended all the courts in the eighth district to act as counsel in the trial of important cases. His speeches to courts and jurors were models of conciseness, expressed in terse, forcible words, and in a manner that seemed defiant of contradiction. In the legal frays of the court of common pleas he was foremost, never avoiding an encounter of any description,

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and seldom coming off without his spurs. One of the sons of James Sheldon was the Honorable James Sheldon, chief justice of the superior court of Buffalo."

Thomas C. Love, who was associated with Albert H. Tracy and James Sheldon, was another of the foremost men of his time in Erie. In the war of 1812 he served as a volunteer soldier, and being engaged in the memorable sortie from Fort Erie in September, 1814, was wounded, taken prisoner, and carried to Quebec. When he was discharged at the end of the war he went to Batavia and subsequently removed to Buffalo. For more than a quarter of a century he was conspicuous in his profession and in the public affairs of his time. His active life comprised work at the bar, on the bench and in congress, and he was noted for his force of character, strong intellect, courteous temperament and unremitting industry. He was well read in his profession, a man of rare intellectual powers and an independent thinker. Upon the retirement of Judge Walden as first judge of the county in 1828, Mr. Love was appointed to that position. In the following year, however, he resigned to accept the office of district attorney, in which position he was brilliantly successful, discharging the duties of his office with zeal, integrity and ability. He held the office of district attorney until after his election to congress in 1834. After that time he rarely appeared at the bar, but in 1841 he was appointed surrogate of the county, holding that office for four years.

Among other strong men of this early period were: Ebenezer F. Morton, who was a member of congress in 1828; William A. Moseley, who was a member of the state senate in 1838, and a member of congress in 1842 and 1844; Roswell Chapin, the first surrogate of Erie county for seven years succeeding his appointment in 1821; Samuel Wilkeson, first judge, a state senator,

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and mayor of Buffalo; Philander Bennett, first judge of the county from 1829 to 1837; Stephen G. Austin, successful alike in professional and business pursuits; and others whose names are still recalled with respect and honor to their varied talents. In later generations there were men who became conspicuous not only locally but in the broader field of state and national affairs.

Oliver Forward has not yet ceased to be remembered for his great and valuable labors as a citizen and in public life by those who are concerned with the early history of Erie and Buffalo. When Buffalo was incorporated in 1813, he was nominated in the act of incorporation as one of the trustees of the village, and he was also appointed a judge of Niagara county. He became a collector of the port, and was sent by his fellow citizens to the state assembly and to the senate. He participated in all the important events occurring in his time, and held many positions of public trust with rare fidelity, being always one of the most active and influential men of his day. His brother, Walter Forward, was secretary of the treasury during the administration of President Tyler, and another brother, Chauncey Forward, was a distinguished representative in congress from the state of Pennsylvania.

George R. Babcock was in Buffalo from 1824. He studied law in the office of Heman B. Potter, who subsequently was his father-in-law. Admitted to the bar in 1829 he retained his connection with the profession until his death in 1876. He had a high reputation for his thorough knowledge of the principles of common and equity law. He was often called upon to act as referee in the determination of difficult litigation. Throughout a long life of public and private service he acquired and held unbroken the respect and confidence of the community.

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Political honors and judicial preferment were within his reach, but he was without ambition for office, choosing rather public and private service in the line of his profession. In 1843 he represented Erie county in the assembly and served two terms in the state senate, 1850-1854. Although he was recognized as one of the ablest and wisest men in public service, he declined further work in that direction.

Thomas T. Sherwood, who settled in Buffalo in 1826, has been called by one of his biographers "one of the most remarkable lawyers and men of his or any other time." For several years he was a law partner with Henry White, and after 1838 was associated with William H. Green. In a memorial upon the life and character of his partner, Mr. Green has said that, "although as a rule, Mr. Sherwood was not learned, he was far abler than any mere learning could make him. Without a scholastic or thorough study of the law, he had acquired and become familiar with the principles upon which our jurisprudence is founded, both those of common law and equity. He was particularly strong in jury cases. There he appeared at his best, and to his own best advantage." It has been said of him that:

"In the pressure and tumult of a trial before a jury, his blood and pulse, the faculties of his body as well as of his mind, would arise into action. He was far from being an accurate or careful speaker, yet if eloquence be judged by the criterion of carrying a man's point with a jury, he was eloquent. The twelve men before him were the only body of men he ever coaxed or courted. On the judge who presided he was apt to look as an obstacle in his way and altogether out of place. He impressed the jury with his feeling and ideas in the case, and so impressed them in their minds that they might not be dislodged, and it was in these scenes of the trials of causes that the ability of the man and the capacity of the lawyer appeared."

Solomon G. Haven was for many years pre-eminent at the bar of Erie as a counsellor learned in the law, and as an advo-



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cate before a jury. His legal education was secured in the office of Governor John Young, in Geneseo, and, arriving in Buffalo in January, 1835, he became a member of the law firm of Fillmore & Hall. Although Judge Hall retired from the firm in 1839, Messrs. Fillmore & Haven continued in active practice until the autumn of 1847, when Mr. Fillmore was elected comptroller of the state. For fourteen years longer, until his death in 1839, Messrs. Fillmore & Haven continued in active practice of his profession. He was pre-eminently successful from the outset, quickly gaining a prominent position, and ultimately achieving repute as one of the foremost *nisi prius* lawyers of western New York. His knowledge, his genial temperament, and his remarkable capacity, excited universal admiration in business; and especially in the practice of the law he developed extraordinary dexterity, shrewdness, vigor and understanding. In March, 1842, he was elected mayor of Buffalo, and in June of the following year he was appointed district attorney of the county. In both those positions he discharged his duties with marked ability. In 1850 he was elected to congress as a supporter of the administration of President Millard Fillmore, his former partner, and was re-elected in 1852 and again in 1854. Upon the floor of congress he became distinguished for his ability, his broad comprehensive grasp of public affairs, and the honesty, industry and independence which he brought to the consideration of all questions of legislation.

Nathan K. Hall, who was a partner of Millard Fillmore and Solomon G. Haven, was one of the most notable men in Erie in the middle of the nineteenth century. Born in Onondaga county in 1810, he removed to Erie in 1826, and studied law with Millard Fillmore in Aurora, and afterward in Buffalo. Admitted to the bar in 1832, he soon after formed a partnership

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with Mr. Fillmore. It has been said of him that "probably no man in Erie county had held more public positions or with more entire satisfaction to the community." In 1839 he was appointed master in chancery, and in 1841, first judge of the common pleas. In 1845 he was elected a member of the state assembly, and in 1847 was returned to congress from Erie county. When Millard Fillmore became president of the United States in 1850, Judge Hall was appointed postmaster general and held that position until 1852. In the last mentioned year he was appointed judge of the district court for the western district of New York, and continued upon that bench for more than twenty years, until his death in March, 1874. Aside from his legal and judicial connections, Judge Hall was active in several public affairs of Buffalo and Erie county. He was identified with the management of many important institutions of Buffalo. For many years he was president of the Buffalo Female Academy, one of the trustees of Wells College in Aurora, Cayuga county, president of the board of trustees of the Normal School, and president of the Buffalo Historical Society.

Isaac Verplanck was another pre-eminently distinguished member of the Erie county bar, and particularly noted for his services upon the bench. Few men of the county have had a longer or more successful judicial life. At the time of his death in 1873 he was the chief judge of the superior court of Buffalo, being judge of that court from its organization in the year 1854. He had the reputation of being one of the most enlightened and sagacious judges who ever presided in *nisi prius* courts. It has been said of him that "he manifested the greatest learning and comprehension of the well established principles of law and equity, quick to apply the law to the facts with intuitively correct perception, favoring no one, and submitting the whole case

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and justly to the jury." Previous to his removal to Buffalo in 1847 he had practiced law in Batavia, and was a district attorney of Genesee county for two terms.

As a matter of record it is only necessary here to call attention to the fact that the bar of Erie county has given to the country two presidents of the United States—Millard Fillmore and Grover Cleveland. There is no call in this connection to review the careers of those two public men, whose histories are part of the history of their country. In lesser state and national positions, representatives of the Erie bar have been notable figures and have accomplished worthy work.

Frederick P. Stevens was one of the early masters of chancery in western New York, a *puisne* judge of the court of common pleas for many years, first judge in 1845, and a county judge elected under the constitution of 1846.

Samuel Caldwell, who was surrogate of the county in 1836, was for many years a supreme court commissioner and a master in chancery.

George P. Barker, who was admitted to the bar in 1830, quickly rose to the front rank, and in 1832, when he was only twenty-five years of age, was appointed district attorney of the county. Afterwards, in 1842, he was elected attorney general of the state, and again was appointed district attorney of the county, which position he held until his death in 1848, at the early age of forty-one years.

"The bright particular star of the bar of Erie county, the orator on whose lips juries and audiences hung with intense delight, was George P. Barker. The period of his great brilliancy extended from about 1835 to 1845, during the last three years of which he was state attorney general, when his health began to decline as he drew towards the close of his brief and brilliant career. Others might have had a better knowledge of law, more logical methods of argument, or more skill in the manage-

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ment of cases, but none had such wondrous powers of language, none had such control over the feelings of an audience. No matter whether in the court room or on the political platform, whether in city hall or on the backwoods stump, his name never failed to draw an enormous audience, and his voice never failed to charm those whom his name had drawn."<sup>7</sup>

Seth E. Sill, who was admitted to practice in 1836, was elected a judge of the supreme court of the state in 1847. He continued on the bench until his death in September, 1851, at the early age of forty-two years. Throughout the state he had become known and distinguished as a learned and able jurist, and he left a lasting impression upon the judicial history of the state.

Joseph G. Masten came to Buffalo in 1836, from Bath, in Steuben county. He was recorder of the city from 1848 to 1856, being elected a judge of the superior court in the last mentioned year, and holding that position until his death in April, 1871. As a lawyer and a judge he occupied high rank, and was recognized as a sound and enlightened jurist.

James G. Hoyt attained prominence in the practice of his profession in Genesee county before he was elected a judge of the supreme court in 1847. He continued to serve as a judge of the supreme court for several years before his death in October, 1863.

### YATES COUNTY

Organized from Ontario county in 1823, Yates county at once proceeded to complete its civic organization and to erect the various county buildings and organize the courts and other branches of the government. John Sutton, George H. Feeter and Joseph B. Walton were appointed commissioners to determ-

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7. "Centennial History of Erie County," by Crisfield Johnson, page 433.

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ine the site for the court house and jail. Provisions were made for the holding of the court of common pleas and the court of general sessions "in the house of Asa Cole, in Benton, but still in the village of Penn Yan." For the time being it was directed that the prisoners should be confined in the jail of Ontario county. Ultimately it was decided that the village of Penn Yan should be the seat of justice for the county, and Abraham Wagener, a public spirited and generous resident of that village, deeded to the county two acres upon which the county building should be erected.

Under the direction of Commissioners William Shattuck, George Shearman, and Samuel Stewart, the first court house was erected. It was a plain, substantial brick building, and has been remembered as very similar in appearance to the court house of later days, although smaller in size. Within were accommodations for the courts and the county officers and cells for the confinement of prisoners. Sometime about 1834—the exact date is not known—this court house was destroyed by fire, and it became necessary to erect a new building upon the ruins of the old. The new court house has remained standing until modern times, although occasional repairs have been made upon it. It was not completed and ready for occupancy until about 1835, and in the preceding year the judges of the court of common pleas, holding court in August, 1834, designated the house of Robert R. Beecher as the place for holding the next term of court.

Larger and more comfortable than the building which preceded it, the second court house was a great improvement upon the first. It was especially agreeable from the fact that the jail was separated from it. The lower floor was arranged for the offices of the county officials, and the upper story for court

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rooms. About the same time that the court house was built, the new jail was constructed in the immediate vicinity. This was a substantial building of stone and frame, but it was burned about 1857, having been set on fire by a prisoner who was confined within it. In the same year the new and substantial jail and sheriff's residence of modern times was erected. This building is of stone, and cost about \$8,000. In 1889 there was erected on the court house lot a county building for the use of the clerk and surrogate at an expense of nearly \$11,000. These county buildings constitute an attractive group which is an ornament to the village in which they are located.

Yates county has had on its bench and at its bar many men of more than ordinary ability and repute. William M. Oliver, who was the first county judge, was a man whose influence was strongly felt in all public enterprises. He sat on the bench of the old court of common pleas from 1823 to 1828 and from 1838 to 1844; and in 1836 he was elected a state senator for one term. Subsequently he was one of the clerks of the supreme court of the state, and a member of congress 1841-1843.

Henry Wells was another man who stood in the front rank of his profession. He was district attorney of the county and afterwards a justice of the supreme court, which place he held for many years prior to his death. Daniel Morris, who was born in the town of Middlesex, was identified with the village of Penn Yan during most of his life. He was a successful lawyer, and was a member of congress for two terms, elected first in 1864. Andrew Oliver was a first judge in the court of common pleas from 1844 until 1846; was a member of congress for two terms being first elected in 1851, and again served for six years as county judge.

First judges from the organization of the county were:

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William M. Oliver, 1823-1827; Samuel S. Ellsworth, 1828-1832; Cornelius Masten, 1833-1837; William M. Oliver, 1838-1843; Andrew Oliver, 1844-1846.

County judges and surrogates have been: Andrew Oliver, 1847-1850; John L. Lewis, 1851-1854; William S. Briggs, 1855-1870; Andrew Oliver, 1871-1876; William S. Briggs, 1877-1882; Hanford Struble, 1883 and 1889; John T. Knox, 1895 and 1901, and Gilbert H. Baker, 1908.

Surrogates prior to 1846 were: Abraham P. Vosburg, 1823-1826; Andrew F. Oliver, 1827-1839; Edward J. Fowle, 1840-1843; Evert Van Buren, 1844-1846.

District attorneys have been: James Taylor, 1826-1830; Charles G. Judd, 1831-1838; John L. Lewis, 1839-1846; Daniel Morris, 1847-1850; D. J. Sunderlin, 1851-1852; A. V. Harpending, 1853-1858; Henry M. Stewart, 1859-1861; John L. Wolcott, 1863-1867; Hanford Struble, 1868-1873; Henry M. Stewart, 1874-1876; John T. Knox, 1877-1882; Andrew C. Harwick, 1883-1885; Charles S. Baker, 1886-1891; Thomas Carmody, 1891-1892; John T. Knox, 1892; Abraham Gridley, 1894; Charles W. Kimball, 1897; Abraham Gridley, 1900 and 1903; Spencer F. Lincoln, 1906 and 1909.

### WAYNE COUNTY

Wayne county was erected from parts of the counties of Ontario and Seneca by an act of the legislature passed April 11, 1823. The nine western towns were taken from the county of Ontario, the six eastern from the county of Seneca. The act appointed William D. Ford, of Jefferson county, Samuel Strong, of Tioga county, and Oliver P. Ashley, of Greene county, commissioners to locate a proper site for a court house and jail in

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the new county. The said commissioners promptly fixed such site in the village of Lyons, where it has ever since remained.

The act also appointed Nathaniel Kellogg, of Sodus, William Patrick, of Lyons, and Simeon Griswold, of Galen, commissioners to superintend the building of a court house and jail, and authorized the supervisors to raise money for that purpose.

Accordingly a court house was built during the summer and fall of 1823. It was of brick, nearly square, with two stories upon a stone basement. The jail was in the basement, the public offices in the story above, and the court room on the upper floor. It stood in the center of what is now the village park.

The new, or present court house, superseded the old one in 1855. It stands just north of the site of the old one. It is a handsome and commodious brick structure, with a large dome, and Ionic portico in front. Its arrangements are complete, and taken in all, it is one of the finest court houses in the state outside the cities.

The present jail is located in the western part of the village. It is built of solid stone masonry as a rear adjunct of the sheriff's house, which is a handsome brick building adapted for the sheriff's residence and offices, and for the detention of civil prisoners.

The first clerk's office was a low brick building, adjoining the park grounds on the south. It is still standing, and is used by the village as a lock-up. The new clerk's office was built in 1874 and further enlarged and improved in 1901. It is of brick, two stories high, the ground floor is occupied as the clerk's office, and the upper floor for the offices of the surrogate and county treasurer.

The act of April 11, 1823, also provided for keeping alive all proceedings already commenced, and gave to Wayne county



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the same rights, privileges and obligations as the other counties of the state. It further provided the time and place for holding the first courts. It directed that the first term of the court of common pleas and the general sessions of the peace should be holden in the Presbyterian meeting house in the village of Lyons, and all subsequent terms, until such time as the new court house could be made ready for that purpose. Prisoners in the meantime might be confined in the jail of Ontario county.

Under the statutes then existing, each county was entitled to five county judges, one of them to be called the first county judge. The others were simply county judges, and soon came to be called *side* judges. The common pleas could be held by any three of the county judges, the first judge always presiding when present. The court of general sessions of the peace was also held by not less than three county judges, or in a contingency by one judge and two justices of the peace. The court of general sessions was practically the criminal side of the court of common pleas. All the judges and also the surrogate were to be appointed by the governor and senate.

Each town was entitled to four justices of the peace to be elected by the people, and each town to not less than two nor more than five commissioners of deeds, to be appointed by the judges and board of supervisors.

On the 18th of April, 1823, William Sisson, Jonathan Boyington and David Arne were nominated and confirmed as county judges of Wayne county. Ambrose Hall was also nominated, but not confirmed.

John S. Tallmadge was nominated and confirmed as surrogate on the same day. At a subsequent date and soon thereafter, John S. Tallmadge was also nominated and confirmed as

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county judge in place of Ambrose Hall, who had been nominated and not confirmed.

The Presbyterian meeting house, then a wooden structure on Broad street, was fitted up, and the first courts of Wayne county were there held on the fourth Tuesday of May, 1823, John S. Tallmadge presiding. Mr. Tallmadge seems to have been the presiding judge to April 19, 1825, when Jacob W. Hallett was confirmed as first judge of the county.

The first county judges of Wayne county under the constitution of 1821, were as follows: Jacob W. Hallett, confirmed April 19, 1825; Alexander R. Tiffany, March 28, 1827; William Sisson, January 20, 1830; William Sisson, February 3, 1835; Hiram K. Jerome, January 29, 1840; Oliver H. Palmer, April 12, 1843; William H. Adams, May 12, 1846.

Mr. Adams held till a county judge under the constitution of 1846 took office July 1, 1847.

In addition to the county judges above specified others were appointed as follows: Thomas P. Baldwin, February 5, 1830; Daniel Eddy, February 5, 1830; Russell Whipple, April 20, 1832; David Arne, Jr., April 26, 1833; Theodore Partridge, March 13, 1835; Daniel Poppino, January 7, 1837; Marvin Rich, January 7, 1837; Lyman Sherwood, March 18, 1838.

There were probably others, but the foregoing are all for which data are at hand.

The list of surrogates under the constitution of 1821 are the following: John S. Tallmadge, confirmed April 18, 1823; Frederick Smith (vice Tallmadge, deceased), January 11, 1826; Graham H. Chapin, confirmed March 10, 1826; Graham H. Chapin, January 12, 1830; Lyman Sherwood, February 11, 1834; James C. Smith, April 10, 1843.

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Mr. Smith held till the office was merged in county judge. His successor was elected and qualified in 1847.

Wayne county had one master in chancery, Hiram K. Jerome, who was appointed to that office April 16th, 1827.

Under the constitution of 1821, district attorneys were appointed by the county judges. The list of such appointments with data of appointment is as follows: William H. Adams, May 18, 1823; Graham H. Chapin, September 26, 1829; William H. Adams, September 29, 1830; John M. Holley, February 1, 1831; Theron R. Strong, January 31, 1835; Charles D. Lawton, February 26, 1839; John M. Holley, October 5, 1842; George H. Middleton, September 26, 1845; Lyman Sherwood, May 26, 1846.

Mr. Sherwood held till his elected successor took office July 1, 1847.

The first election of judicial officers took place June 7, 1847. They assumed their offices July 1, 1847. The following is a list of the county judges since that time: George H. Middleton, elected June 7, 1847; Leander S. Ketchum, November, 1851; Lyman Sherwood, November, 1859; George W. Cowles, November, 1863-1867; Charles McLouth, appointed (in place of Cowles, resigned), November 1, 1869; Luther M. Norton, elected November, 1869; George W. Cowles, November, 1873; Thaddeus W. Collins, November, 1879. George W. Cowles, November, 1885; Luther M. Norton, November, 1891; Samuel N. Sawyer, November, 1897. Clyde W. Knapp, appointed 1907 in place of Sawyer, resigned, and elected in November, 1908.

Wayne county has furnished three supreme court judges. Theron R. Strong elected supreme court judge in 1851, and held office for eight years. James W. Dunwell was elected supreme court judge in 1894 and died May, 1907. Judge S. Nelson Saw-

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yer was appointed in his stead in 1907, and elected to a full term in November, 1908.

The office of surrogate has been attached to the county judgeship since July 1, 1847, and hence all the county judges since 1847 have discharged the duties of that office. The subject has been often debated, but the board of supervisors have never been brought to the sticking point of making the office of surrogate a separate office.

The district attorneys from 1847 have been: Coles Bashford, elected June 7, 1847; George Olmstead, (appointed in place of Bashford, resigned), October 4, 1850; Stephen K. Williams, elected November, 1850; Joseph Welling, November, 1853; Jared F. Harrison, November, 1856; Jacob B. Decker, November, 1858; William F. Aldrich, November, 1861; George N. Williams, November, 1864; John H. Camp, November, 1867; Charles H. Roys, November, 1870; Murganzy Hopkins, November, 1873; Marvin I. Greenwood, November, 1876; John Vandenburg, November, 1879; Jefferson W. Hoag, November, 1882; Charles H. Ray, November, 1885; Samuel N. Sawyer, November, 1888; Edward H. Kellogg, November, 1894; Charles T. Ennis, November, 1900; Joseph Gilbert, November, 1906, and still in office.

The bar of Wayne county has compared favorably with the bar of the other counties. Whilst it may not have contained the brightest lights of the profession, it has had as members many men of eminent ability.

At the opening of the first court held in the old Presbyterian meeting house, the following declaration was filed with the court by those desiring to practice as attorneys and counselors at law in the courts of Wayne county:

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"I do solemnly swear that I have not been engaged in a duel, by sending or accepting a challenge to fight a duel, or by fighting a duel, or in any other manner, in violation of the act entitled, 'An Act to suppress dueling,' since the first day of July, in the year of our Lord, one thousand eight hundred and sixteen; nor will I be concerned either directly or indirectly, in any duel during the continuance of the said act, and while an inhabitant of this State.—May 27, 1823."

To this declaration were signed the following names: William H. Adams, William Wells, Lem W. Ruggles. Fred K. Smith, Edward M. Coe, Mark H. Sibley, Orville L. Holley, Charles F. Smith, Alex R. Tiffany, William J. Hough, Th. P. Baldwin, Hiram K. Jerome, John Fleming, Jr., David Hudson, Rodney J. Church, Graham H. Chapin, Jesse Clark, George W. Scott, Hugh Jameson, Jared Willson, Joseph Skinner, Samuel Dickinson, Nathan Park. Several of the signers resided in other counties. This document is still on file in the Wayne county clerk's office.

Without doubt the ruling spirit of the bar in that early day was General Williams H. Adams. He was born in Berkshire, Massachusetts, in 1787, served as an officer in the war of 1812, and acquired his title of General as an officer in the militia. He came first to Canandaigua, when quite a young man, and removed to Lyons in 1820, and was one of the moving spirits in forming the new county. He was the first district attorney of Wayne county, and subsequently first county judge. Although not so close a student of the law as some others, yet he had a good legal mind, was a fine talker, and excelled before a jury and in the examination of witnesses, and was an excellent trial lawyer. His reputation was high, and he was often called to assist in difficult cases in other counties. His law partner, Hugh Jameson, prepared the cases of the firm and General Adams argued them.

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Another prominent signer of the declaration was Graham H. Chapin. He was in turn surrogate, district attorney and member of congress. He was a graduate of Yale, and a man of fine manners and ability.

Hiram K. Jerome also signed the declaration, and became one of the leading lawyers of Wayne county. He was appointed first county judge in 1840, and in 1848 was the Whig candidate for judge of the supreme court.

The most popular lawyer Wayne county ever had was John M. Holley. He was a native of the state of Connecticut, was born November 10, 1802, graduated from Yale, and came to Lyons to study law in the office of his uncle, Orville L. Holley. He was admitted to the bar in 1825, commenced his practice at Buffalo, and a year later settled at Lyons, and soon became the most brilliant member of the bar of Wayne county. He was for a time the law partner of Graham H. Chapin. He became district attorney in 1831 and again in 1842. In 1841 he was member of assembly, and in 1847 was elected to congress. He ran on the Whig ticket and overcame a Democratic majority in his district by his personal popularity. He died in Florida, March 8, 1848, and before the expiration of his term of office. During the greater part of his career he was often pitted against his great rival at the bar, Theron R. Strong, of Palmyra. These two men were of the same age (only three days difference) and each unrivalled in their immediate localities. At the county seat and in important cases they were arrayed against each other. Holley undoubtedly had the most general intellect. He also was warmhearted and generous, and had the advantage in voice and personal address, but he was most too social to be a hard student. Strong, on the other hand, was keen, cold, calculating and persistent, and studied his cases with the utmost care and

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precision. His voice and delivery were not pleasing, but he reached his hearers through his ideas and not his eloquence. Thus equipped, the laurels were pretty nearly divided, although a close observer could not help seeing that genius was often vanquished by calculation. Strong had much the larger practice.

Theron R. Strong was born at Salisbury, Connecticut, November 7, 1802, and came to Lyons about 1825. He practiced with great success, and in 1835 was made district attorney. He was sent to congress in 1839, and after his term in congress he served in the assembly in 1842. He was elected supreme court judge in 1851 and served his term of eight years with much distinction. He was a profound legal student, and his opinions rank among the best in our reports, Judge Strong, more than any other man, taught the legal profession how to practice law. His legal successes showed to all that it requires something more than general ability to win a lawsuit. He conquered his adversaries, great and small, by thoroughness in the preparation of his cases. He omitted nothing. He marshalled every fact, he raised every point, he invokd every principle, and cited every authority that could bear upon his cases, and enforced them with candor, earnestness and pertinacity. After the expiration of his judicial term, Judge Strong practiced in Rochester, then in New York City, where he died in May, 1873.

Among the early lawyers was William Sisson, who came to Lyons about 1816. He was one of the first county judges of Wayne county, his appointment bearing date April 18, 1823. He was appointed first county judge January 29, 1830, and re-appointed to the same office February 3, 1835. Judge Sisson was a prudent and successful business man, and accumulated a large fortune for those days, and in his later years became

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a banker. In his day he had the reputation of being the richest man in Lyons. He died December 7, 1863.

De Witt Parshall was another business lawyer, who became the leading financier of the county. He was born and raised on a farm in the town of Palmyra, had an academic education, studied law, and was admitted to practice about the year 1835. He was for a time a law partner of Judge Strong, at Palmyra, and later of Judge Sisson, of Lyons. He soon showed great ability for business, dealt largely in real estate, became a banker under state law, and subsequently chief proprietor and president of the Lyons National Bank. At his death he was the largest land holder in Wayne county, and in addition owned valuable timber tracts in the West. He died May 12, 1880.

Stephen K. Williams has the distinction of having practiced more than sixty years at the bar of Wayne county. Mr. Williams has been a hard student all his life, and very successful in his practice, especially before the law courts. He was elected district attorney in 1850, and served in the state senate from 1864 to 1869 inclusive. He still attends to his law office, more or less, which is unique from the fact that three generations of lawyers are practicing in the same office—Stephen K., his son, Byron C. Williams, and his grandson, George Williams, son of Byron C., are all practitioners together.

Lyman Sherwood was another of the old time lawyers to rise to distinction. He was a strong man at the bar, and served as surrogate, county judge and senator under the old constitution, and as county judge under the constitution of 1846.

James C. Smith commenced a brilliant career at Lyons, and was serving as surrogate when the constitution of 1846 went into effect. He was regarded as a rising man from the first. He left Lyons to form a partnership with E. G. Lapham, of Can-



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andaigua, and resided there for the rest of his life. His eminent services on the supreme court bench are known to all.

William Clark was another of the early practitioners of Wayne county. He was regarded as a man of eminently sound judgment. His advice was much sought, and during his long practice he went by the name "Counselloer Clark". He served with distinction in the senate of 1854-55. He was a man of strong and upright character, of sound judgment and decided opinions, and not always popular with his associates.

Space will not allow a specific notice of the many good lawyers of later date who have practiced in Wayne county. William S. Stow and Charles D. Lawton practiced at Clyde; they commenced under common law practice and finished up their careers under the Code. Colonel Joseph Welling stood high in his profession; he finished his career at Rochester.

John Vandenburg and Charles T. Saxton, of Clyde, Jacob B. Decker, of Red Creek, John H. Camp, and Charles H. Roys, of Lyons, Luther M. Norton, of Newark, and Samuel B. McIntyre, of Palmyra, were all good lawyers, with a full practice. They all now sleep with their fathers.

I have not and I shall not attempt to speak of the living. The only exception is Stephen K. Williams, who has come down to us from a past generation.

Wayne county is not very great in noted trials. It has had quite a number of murder trials, but only two final convictions. In one case, that of William Fee, the convicted man was hung. In the other case a new trial was ordered, and on the second trial the sentence was imprisonment for life. There have been many civil trials of local importance, but none can be recalled of great public interest outside the county.

Lyons, New York.

F. W. COLLINS.

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### ORLEANS COUNTY

When Orleans county was constituted in 1824, Samuel G. Hathaway, Philetus Swift and Victory Birdseye were named commissioners to determine upon a site for the court house. Pending the erection of the court house and jail, criminals were sent to Genesee county for confinement. Land for the new buildings in Albion, which had been determined upon as the county seat, was donated by Nehemiah Ingersoll. Tradition has it that the people of Albion resorted to sharp practice in influencing the commissioners to accept Albion as the place for the county seat. The story is told by one historian that:

"The commissioners came to consider the claims of the numerous rival villages about the middle of the dry season. Mr. Nehemiah Ingersoll, Philetus Bumpus, Henry Henderson, and a few other Albion men, determined to use a little strategy to help Albion. Knowing that when the commissioners would be here the creek would be too low to move the saw-mills, and foreseeing the advantage of a good mill stream, given them, they patched the two dams and flumes and closed the gates to hold all the water, some days before the commissioners would arrive; sent some teams to haul logs and lumber about the saw-mill and mill gear in the village, to mark the ground and give the appearance of business there.

"When the commissioners came to see Albion, having been generously dined and wined by its hospitable people, they were taken into a carriage to see the place, and in the course of the ride driven along the creek and by the saw-mill, then in full operation, with men and teams at work among the lumber, and with a good supply of water from the ponds, those made for the occasion. The commissioners were impressed with the importance of this fine water power, and gave the county buildings to Albion, before the ponds ran out."<sup>m</sup>

First judges of the court of common pleas of the county, with dates of their election or appointment, were: Elijah Foot,

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1. "Pioneer History of Orleans County, New York," by Arad Thomas, p. 118.

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1825; Alexis Ward, 1830; Henry Angevine, 1840; Benjamin L. Bessac, 1841; James Gilson, 1846.

County judges, with dates of their election or appointment, have been: Henry R. Curtis, 1847; Dan H. Cole, 1855; Gideon Hard, 1855; Arad Thomas, 1858; Edwin R. Reynolds, 1863; John G. Sawyer, 1867; Isaac S. Signor, 1883 and 1889.

Surrogates, with the dates of their election or appointment, were: William White, 1825; Alexis Ward, 1829; John Chamberlain, 1833; Thomas S. Clark, 1836 and 1844, and Dan H. Cole, 1840.

District attorneys, with dates of their election or appointment, have been: Orange Butler, 1825; George W. Fleming, 1828; Henry R. Curtis, 1831; George W. Fleming, 1832; Henry R. Curtis, 1836; Sanford E. Church, 1846 and 1847; William K. McAllister, 1850; Benjamin L. Bessac, 1853; Henry D. Tucker, 1856; John W. Graves, 1859; John G. Sawyer, 1862; Irving M. Thompson, 1865; Henry A. Childs, 1868; Charles A. Keeler, 1877; Isaac S. Signor, 1880; Clark D. Knapp, 1883; William P. L. Stafford, 1886 and 1889; Edward B. Simons, 1892.

### CHEMUNG COUNTY

Set apart in 1788, the township of Chemung, which was then a part of Montgomery county, comprised practically the territory that afterward became the county of the same name. As a township its early civic and legal history was part of that of Montgomery.

When Tioga county was organized in 1791 it was composed of the present counties of Chemung, Broome and Tioga, with portions of the counties of Schuyler, Tompkins, Cortland and

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Chenango. The village of Newtown (afterward Elmira) became the county seat. The site of the new court house was on Sullivan street, near Church street, and portions of the structure were standing until late in the nineteenth century. The building was a substantial log structure, clapboarded, of two stories and an attic. In the lower story was the jail and the dwelling for the under sheriff, or jailor; in the second story was a room for the court, and religious services were also held there.

Court was first held in a tavern before 1794, probably in the Stoner house, and the court house was not erected until 1796. It served the purpose for which it was intended for about a generation, a little less than thirty years; then it was succeeded by a court house that for another generation and more stood on Lake street.

In 1808 the legislature passed an act changing the name of the township to Chemung, and in 1815 the village of Newtown was incorporated. The name of Newtown was changed to Elmira in 1828. In 1838, after Broome county was taken from Tioga, courts were decreed to be held alternately in Newtown and Spencer. The court house and jail in Spencer was built in 1813, but the county buildings were burned in 1822, and the legislature then decreed that the courts should be held alternately in Newtown and Owego. An office for the county clerk was secured in Owego, and the legislature authorized the construction of a fireproof office building.

In 1824 a new court house was built to take the place of the one which had been located in Newtown. It was a pretentious building, and afforded great satisfaction to the people of that time. It stood upon the side where the court house in Elmira subsequently stood, and when it was finally displaced by the more modern building which succeeded it, it was removed

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to Market street, and there used by the city government. The basement of the court house was occupied by the jailor, and in the north and southeast corner of the building on the first floor were strong rooms used as cells for prisoners; these rooms were laid in with heavy logs and protected by iron bars. Other rooms on the first floor were the offices of the judge, district attorney, and jurors. On the second floor was the court room, which in the beginning was a large auditorium, but the business of the county speedily outgrew its capacity. In 1836, when Chemung county was finally formed, the little building, which for many years was used as the office of the district attorney, built of brick and iron, was kept for the use of the county clerk.

County judges have been: Joseph L. Darling, 1836; James Dunn, 1844; Joseph L. Darling, 1846; John W. Wisner, 1847; Aaron Konkle, 1850; Ariel S. Thurston, 1851; Theodore North, 1855; Horace Boardman Smith, 1859; Elijah P. Brooks, 1860; Gabriel L. Smith, 1864; Thomas S. Spaulding, 1868, and Seymour Dexter, 1878.

Surrogates, with dates of their appointment or election, have been: Lyman Covell, 1836; James Dunn, 1840; Benajah B. Paine, 1844.

District attorneys, with dates of their appointment or election, have been: Andrew K. Gregg, 1836 and 1838; Hiram Gray, 1841; Don Carlos Woodstock, 1841; William North, 1844; Elijah P. Brooks, 1845; Erastus P. Hart, 1847; Edward Quinn, 1850; Archibald Robinson, 1855; Solomon B. Tomlinson, 1856; John Murdock, 1859; Erastus F. Babcock, 1865; John T. Davidson, 1868; Robert Stephens, 1868; Walter L. Dailey, 1871; Sylvester S. Taylor, 1874; Archibald Robertson, 1877; J. Sloat Fassett, 1879, and John B. Stanchfield, 1880.

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### FULTON COUNTY

The village of Johnstown was the county seat of Tryon county, in the province of New York, a county organized in 1772 by the provincial assembly, and named in honor of William Tryon, governor of the province. In 1784 the State legislature changed its name to Montgomery, in honor of General Richard Montgomery, who fell in the battle of Quebec. Johnstown continued to be the county seat until, for the convenience of the people of the Mohawk Valley, a new court house was built in 1836 at Fonda. This action so incensed the inhabitants of the ten towns north of the Mohawk Valley, that they obtained in 1838 an act of the legislature constituting them a county with the name of Fulton, in honor of Robert Fulton. Johnstown then became the county seat of Fulton county, and has continued such ever since.

The court house at Johnstown is one of the most interesting public buildings in America. It was built by Sir William Johnson, in 1772, of small hard bricks which came from Holland as ballast in ships, and were brought from New York to Caughnawaga by boats and thence by wagons to Johnstown. The building is nearly square, one story high, and has a wooden cupola on the center of the roof, where was hung, when the court house was built, a large, iron triangle which still renders service as a bell. It is invariably rung for every session of the court. The court house stands on a fine plot of ground at the corner of two of the principal streets of the city. It has been the scene of many interesting trials wherein distinguished counsel from nearly every part of the State have appeared, one of the most noted of which was that of Solomon Southwick, ex-

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clerk of the assembly, journalist and politician, in 1812, under an indictment for the attempted bribery of Alexander Sheldon, speaker of the assembly, to cast his vote in favor of incorporating the Bank of America. James Kent, who was then chief justice of the supreme court, presided. The prosecution was conducted by Thomas Addis Emmet, then attorney general, and the defendant, who was acquitted, was represented by Aaron Burr, Daniel Cady and Ebenezer Foot. The first term of court for Tryon county was held there in 1773, with Judge Guy Johnson presiding. The side-judges were John Butler, of Switzer Hill, and Peter Conyne, of Johnstown.

The offices of county judge and surrogate in Fulton county were regarded as one office from the organization of the county until 1901, when they became separate offices. The lawyers who served in both offices are as follows: Archibald McFarlan, 1838; Donald McIntyre, 1840; Marcellus Weston, 1845; John Wells, 1847; Nathan J. Johnson, 1850; John Stewart, 1855; McIntyre Fraser, 1871; Ashley D. L. Baker, 1877; and Jeremiah Keck, 1883. In 1901 Mr. Keck was elected surrogate, and William C. Mills, county judge, and both are still holding said offices.

The list of district attorneys of the county is as follows: John W. Cady, 1840; Clark S. Grinnell, 1840; Thomas L. Wakefield, 1847; Alexander H. Ayers, 1849; William Wait, 1849; John H. Frisbie, 1853; James M. Dudley, 1853; John S. Enos, 1856; John M. Carroll, 1859; Richard H. Rosa, 1871; Jeremiah Keck, 1877; Clayton M. Parke, 1883; William Green, 1889; Jerome Egleston, 1901; and Frank Talbot, 1904, who is still in office.

The list of county clerks of Fulton county, who by virtue

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of their offices are clerks of the supreme and county courts, is as follows: Tobias Stoutenburg, 1838; Stephen Wait, 1841; Peter W. Plantz, 1850; Archibald Anderson, 1853; Mortimer Wade, 1854; William S. McKie, 1877; Robert Humphrey, Jr., 1883; John T. Selmser, 1886; Charles H. Butler, 1892; Chauncey Heagle, 1901; and Edgar D. Gordon, 1907, who is still in office.

Fulton county has always been noted for the high character and distinguished qualities of its bar. Its law-writers, William Wait, Edwin Baylies and DeWitt C. Moore, have also given it distinction. Wait was the author of Wait's "Law and Practice," in some respects the most popular law book in the country. He maintained one of the largest and most valuable law libraries in the State.

When Fulton county was organized it possessed one of the most distinguished lawyers in the State in the person of Daniel Cady, who during a long life of devotion to practice had become very skillful in real estate cases. The heirs of Sir William Johnson employed him to consider whether they could recover the great estate that had been confiscated by the government. He advised that the action of the government was illegal, but that no relief could be had, as the occupants had been in possession for over twenty years. Judge Cady was born in Columbia county, New York, in April, 1773, and read law in Albany with John Wentworth, and was admitted to practice in 1795. While yet a young man he removed to Johnstown, where he practiced his profession until 1847, when at the age of seventy-four he was appointed a justice of the supreme court. He served mostly at *nisi prius*, but sat *ex officio* from July, 1847, to January 1, 1848, as a member of the court of appeals.



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He resigned January, 1849, on account of ill health and died October 30, 1859.<sup>1</sup>

The number of distinguished lawyers who have made Fulton county their home and the arena of their achievements is not large, but they each deserve more than a passing mention.

McIntyre Fraser was born of Scotch parentage, in Johnstown, on the thirtieth day of March, 1822. He was educated in the common schools and the Johnstown Academy, after which he studied law in the office of John Wells. He was admitted to the bar in 1847, and soon after formed a partnership with Martin McMartin. Subsequently he was a partner successively with John Stewart, Daniel Cameron and John M. Carroll. The partnership with Mr. Carroll was formed in 1869 and lasted nearly twenty years. Judge Fraser possessed the remarkable faculty of discovering the crucial points in a case. When he addressed a jury he was sure to view the facts from their standpoint. He spent no time in efforts to demolish the arguments of his opponent, but addressed himself to points favorable to his side of the case. These he impressed so deeply in the minds of the jury that they did not forget them in the jury-room. His arguments were so persuasive that juries could not fail to fall in with his way of thinking. He kept the judge and jury in a good humor by his pleasantries, and never failed to have an audience. Such was his power and success with juries that he seldom lost a case. In 1871 he was elected county judge and surrogate. The county was largely Republican, and, although he was a lifelong Democrat, his popularity was such as to give him a large majority over a popular opponent. Be-

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1. At the time of Judge Cady's appointment there was no age limit for justices, the constitution of 1846 having abolished the limit of sixty years theretofore existing.

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cause of his genial social nature he was loved by every one who knew him. As a stump speaker at political meetings he was a favorite, and men of all creeds turned out to hear him. He died April 6, 1895, in his seventy-third year.

Horace E. Smith was the Solon of the Fulton county bar. He was born at Weston, Vermont, on January 30, 1817, and obtained his education in that State. He came to Broadalbin, in Fulton county, and commenced the practice of law with James M. Dudley. Later he moved to Johnstown, where he practiced his profession until his death, which occurred October 19, 1902. Dartmouth College conferred the degree of LL. D. upon him in 1880, and from 1879 to 1889 he was dean of the Albany Law School. Although not a graduate of any college, he was a most learned man. He seemed to have mastered every kind of knowledge, and was an all-round lawyer, being effective before both judge and jury. His fine form and superb carriage while trying a case in court the observer was not likely to forget. His practice was mostly in civil cases, in which he had a large and important business. He did not enjoy the criminal practice, but now and then acted as counsel to the district attorney in important cases.

James M. Dudley was one of the leaders of the Fulton county bar. He was born in Peru, Vermont, July 13, 1813, and was brought up a farmer until he was seventeen, when he left home to enter the Academy at Chester, Vermont. He finished his education in the seminary at Manchester, Vermont. He subsequently read law in the office of Judge Washburn, at Ludlow, and was admitted to practice in 1845. He and Horace E. Smith were schoolmates and came together to Broadalbin, where they began the practice of law as partners. Neither remained there long, Mr. Dudley going to Oppenheim and thence to New

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York City, where he practiced until 1857. He then came to Johnstown and formed a partnership with Judge Wells, which continued until January 1, 1877. In 1853 he was appointed district attorney for the county by Governor Horatio Seymour. For many years he held the office of United States commissioner. He took a deep interest in education, and was chairman of the board of education in Johnstown for a long period. He was a strong man, honorable and just, and possessed a tender heart. In many respects he was also a strong lawyer. He loved his business, and devoted all his energies to its work. He is said never to have lost a case that he carried to the court of appeals. He was strong before a jury, not because of oratory, but by virtue of his resistless logic and the adroit manner in which he marshalled the facts. He died April 9, 1892.

John M. Carroll, one of the most distinguished lawyers of Fulton county, was born on the 27th of April, 1823. His paternal ancestors came from England in 1625, and belonged to a branch of the Carroll family of Carrolltown, Virginia. His maternal ancestors were Huguenots who came to this country in 1688. As a boy he pursued his studies in preparation for college at the academy at Cherry Valley and at Fairfield. He entered Union College, where he took the classical and civil engineering courses, in which he received first honors, and was made a member of the Phi Beta Kappa society. After his graduation he entered the office of the Hon. Jabez D. Hammond, of Cherry Valley, a noted lawyer and a member of congress for years. From there he went to Fonda, where he was principal of the academy, continuing his legal studies with Judge Cushney. While at Fonda he was admitted to the bar, and thereupon took up his abode in Broadalbin, where he began the practice of his profession. He did not remain there long, but

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in 1862 moved to Johnstown, where he lived the rest of his life. In 1859 he was elected district attorney of the county, and in 1870, although a Democrat in a district strongly Republican, he was elected to congress by a large majority. His services in Washington were so much above those rendered by his predecessors that the district would have re-elected him but he declined. The county of Fulton has ever been thankful to him for his success in obtaining the free admission of hides. It was in 1869 that Mr. Carroll and McIntyre Fraser went into partnership. It was often said that no two men could be better adapted for carrying on together the work of the profession. For many years they divided their work, Mr. Carroll preparing the cases for trial, and Judge Fraser trying them before the court or jury. The firm was dissolved in 1894. Mr. Carroll had the reputation of possessing the clearest logical mind known to the profession. His briefs were all masterpieces. He never failed to grasp the decisive question in any decision he cited. It has been well said of him that he led a life of singular strength and force, quiet and unassuming, but irresistible. He was instinctively a student, and few men have outranked him in legal learning or excelled him in general knowledge. His death occurred May 9, 1901, when he was in his seventy-eighth year.

Emmet Blair was born at Broadalbin, in 1884, and died there March 8, 1904. He was educated at Union College, Schenectady, and began shortly after he left school the practice of his profession at Broadalbin, where he remained all his life. He did not do a general practice, but limited his business to equity. He was much interested in politics, and was one of the best known men in the State. He did not hold any office, but attended nearly all the State conventions of both parties.

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John Wells was a native of Johnstown, and a partner at times with several different lawyers there. He gave more attention to general literature than to law. He died in the early part of 1877, the memorial service taking place at the court house on the twelfth day of June of that year, at which resolutions were passed and remarks made by many lawyers.

John Stewart, of Scotch descent, was born in Mayfield, Fulton county, on the thirtieth day of October, 1820. He attended the Kingsboro Academy, and finished his education at the age of twenty-three. He then began the study of law in the office of Clark S. Grinnell, at Northampton, and in 1850 was admitted to the bar. In 1851 he was elected member of assembly, serving one year, and in 1855 he was chosen judge and surrogate, which offices he held for sixteen years. At the time of the election of Judson S. Landon, of Schenectady, to the office of justice of the supreme court, the office was conceded to belong to Fulton county. The delegate from this county was Richard H. Rosa, who stood for John Stewart. Several delegates from other counties favored Horace E. Smith, and, as neither could carry a majority, the convention compromised on Landon. Judge Stewart was an office lawyer, attending to estates. He continued at work until his death, which occurred November 20, 1882.

Martin McMartin was another of the Johnstown lawyers. He went to the civil war, and served throughout the war. On his return home he resumed his profession, in which he continued until his death.

Robert P. Anable was born in Hamilton county, February 22, 1845. He studied law with Carroll & Fraser, and began his practice in Hamilton county, where he was elected county judge, he being the only lawyer in the county. He removed to Johns-

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town in 1885, and remained there practicing his profession until his death.

Hiram S. Parkhurst was born in Oswego county, April 4, 1841, and was admitted to the bar and began the practice of law before coming to Gloversville in 1868. In Gloversville he formed a partnership with Judge Baker, and this firm did a large business. Subsequently he moved to Chicago, where he won a reputation as a trial lawyer. In the early part of 1898 he met with a serious accident while getting down from a street car, and received an injury from which he never recovered. He died at Gloversville, November 13, 1898.

William Green, was born in Fulton county, and went from there to the civil war, after which he began the practice of law in New York City, where he remained until he was advanced in years. Returning to Fulton county, he was elected district attorney in 1889, serving one term, and dying shortly after.

Clayton M. Parke was born December 22, 1847, at Clifton Park, New York, his father being a Baptist clergyman. He was educated at Madison (now Colgate) University, from which he graduated in 1868 and from which he received the degree of M. A. He read law for two years in the office of Bullard & Davenport, at Troy. He then spent two years with William Wait, in Johnstown, in the work of annotating the Code. In 1871 he was admitted to the bar and, coming to Gloversville, began the practice of law, which he carried on with success until his health failed and he was compelled to stop work. After a long illness he died at Gloversville, October 10, 1904.

Jerome Egelston, born in Northampton, Fulton county, January 4, 1854, read law with Judge Spencer in Gloversville and was admitted to the bar, September 10, 1880. He was elected city recorder in April, 1890, and district attorney in

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1901, which office he held until his death which took place November 29, 1904.

Perhaps the most noted trial which has taken place in Fulton county was that of one Smith for murder, and, later on, for arson. The crime, if one was committed, took place in a small bank building situated on Main street in Johnstown. The building was only one story high, its angle to the street, and having only one door and two small windows, opening flush with the sidewalk. Inside there was the ordinary office in the front, and in the rear a small bedroom where a young bachelor, Edward Yost, had lodgings. Early one morning, before light, some persons in passing the bank saw smoke escaping from the crevices around the door and windows. They gave warning and a little crowd soon gathered. The windows were broken open, and, when the smoke escaped and the fire in the bedroom was put out, they found the body of Yost on the floor. He had evidently been smothered. Yost was a member of one of the old families of the village and a popular member of the Masonic fraternity. He had a friend, a young man named Smith, about twenty years old, who sometimes lodged with him. They were known to be boon companions. For some reason that has never transpired, the friends of Yost charged Smith with killing Yost, and had him indicted for murder in the first degree. The public feeling grew against him day by day until when his trial came on, there were few people in the village who had not pronounced him guilty. His father and family stood by him and believed him innocent. The district attorney was Jeremiah Keck, with Horace E. Smith as counsel. John M. Carroll appeared for the defendant, assisted by Lyman Tremain, of Albany, who had been a famous criminal lawyer but was at this time old and decrepit. The trial was long and exciting. The testimony was

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wholly circumstantial. The incidents which were claimed to show the guilt of the defendant were far from decisive and were somewhat as follows. A man who lived near the bank reached there before the door was broken in and took part in what was done. When he went home to dinner he found the bank key in his overcoat pocket. He did not know how it came to be there. It was shown that the defendant was in the habit of calling upon the man in charge of the gas house opposite his father's home. While the trial was in progress, several men went to the gas meter and, passing a rake down into the water, drew up the gold watch of Yost. There was no tarnish on the watch, and some experts said it had been in the water but a few hours, while others were of the opinion that it might have been there several months. The deceased was known to have possessed a large number of rare coins, some of which he carried on his person. During the trial quite a number of these were found scattered along the side of the street near the defendant's home. The trial at last was ended, the jury reporting about midnight. The court received a verdict of not guilty. Immediately Judge James commanded the defendant to arise, and told him in substance that the jury had acquitted him out of sympathy or corruption, but that the public believed him guilty and that the court was of the same mind. This remark by the judge was thought quite unprecedented, and caused many to feel that the judge had been prejudiced throughout. The next grand jury indicted Smith for arson in setting fire to the bank. The same counsel took part in the trial, except that Rufus W. Peckham took the place of Mr. Tremain, who was ill. Judge Judson S. Landon presided at this trial and, at the close of the People's case, dismissed the indictment. These trials were the most dramatic events in the legal history of Fulton county.



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During the trial for murder the court house was crowded with people at every session, and there was much contention between counsel on the introduction of evidence; but, on the trial for arson, the court house was practically vacant, and the defendant's counsel made no cross examination except to ask each witness if he had sworn substantially the same as on the charge of murder, the answer invariably being in the affirmative. The judge dismissed the indictment without argument.

EDGAR A. SPENCER.

### WYOMING COUNTY

In 1841 a bill passed the legislature establishing the county of Wyoming, from the southern part of Genesee. The movement for the erection of this territory into a county had its main origin in 1840, when a law was passed authorizing the erection of the new court house and jail in Genesee county, and the subsequent decision of the commissioners to establish those county buildings in Batavia, which location was not at all satisfactory to the residents of the southern part of the county. Middleborough village was chosen as the county seat, the name of the village being subsequently changed to Wyoming. By the act organizing the county it was provided that the first term of the court should be held in the public house in East Orangeville, and the subsequent terms should be held at such places as the judges might designate, until a court house should be completed.

The first court convened in East Orangeville, June 21, 1841. Paul Richards, first judge, presided, and with him were James Sprague and Peter Patterson, judges. It was ordered that the device for the county seal should be "the figure of the American

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Eagle surrounded by a circle, and upon it, engraved in Roman letters, 'Wyoming County Clerk's Office'." In 1849 this device was changed to the figure of the goddess of liberty surrounded by a circle within which are the words "Wyoming, New York, Seal". The Masonic hall in the village of Warsaw was designated by the judges as the place for holding the next term of the court. In this hall the sessions of the court were held regularly until the June term in 1843.

Commissioners to determine the location of the court house, jail and county clerk's office were Peter R. Reed, Davis Hurd, and John Thompson, and they determined upon Warsaw as the county seat. For superintending the erection of the county buildings, Commissioners John A. McElwain, Paul Richards and Jonathan Perry were named. Trumbull Cary, of Batavia, gave to the county the lot upon which the court house and clerk's office were erected. In 1841 the jail was built, and in 1842 the court house. The cost of these buildings, with the county clerk's office, was within \$10,000. The court house is a brick structure, fronting on Main street, just north of the business portion of the village. It has a convenient court room and the usual jury room. The county judge, surrogate and sheriff, have their offices in the building. The clerk's office, a fireproof building, also of brick, stands a short distance from the court house, and a finely shaded lawn lies in front of both. The jail is a wooden structure, standing west from the other two.

In 1877 a strong effort was made to change the location of the county seat from Warsaw to the town of Gainesville, as "a more convenient, accessible and healthy locality." A majority resolution of the board of supervisors to this effect was presented to the people for decision in their town meetings of

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February, 1878, and by decisive majority of all the votes cast, the measure was discarded.

First judges from the time the county was created in 1841, with the dates of their appointment or election, have been: Paul Richards, 1841; John B. Skinner, 1846; W. Riley Smith, 1847; Marvin Trall, 1851; Harlow L. Comstock, 1855, 1859 and 1863; Bryon Healy, 1867, 1871 and 1877.

Associate justices until 1846, with the dates of their election or appointment, were: Alonzo B. Rose, Joseph Johnson, and Peter Patterson, 1841; Dr. Augustus Frank, 1842; Nyrum Reynolds, Moseley Stoddard and James Sprague, 1845.

District attorneys, from the organization of the county to the present time, with the dates of their election or appointment have been: W. Riley Smith, 1841; James R. Doolittle, 1847; Harlow L. Comstock, 1850; Ferdinand C. D. McKay, 1856; Thomas Corlett, 1859 and 1862; Byron Healy, 1865; Elbert E. Farman, 1868, 1869 and 1872; Andrew J. Knight, 1874; Leverett Spring, 1875; I. Samuel Johnson, 1876, 1879 and 1882; Eugene M. Bartlett, 1885; George W. Botsford, 1888 and 1891; Elmer E. Charles, 1894, 1897 and 1900; John Knight, 1903; 1906, and 1909.

Surrogates of the county, with the dates of their election or appointment, were: Harvey Putnam, 1841; William Mitchell, 1843.

### SCHUYLER COUNTY

Schuyler county was created out of portions of Chemung, Tompkins and Steuben in 1854. For nearly a quarter of the century preceding that time, several demands for this separate organization were made, and the agitation for the creation of

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the new county was persistent. The act of the legislature creating Schuyler county was passed in April, 1854, but even after that time the opposition to the new county continued; the constitutionality of the act of organization was called in question, and carried to the supreme court before it was finally decided. The first county officials were Judge Simeon L. Rood, Clerk Algernon E. Newcomb, Sheriff John S. Swartwood and District Attorney Lewis F. Riggs. The first term of the Schuyler county court was held in Watkins by Judge Rood, with William Diven and Abram Jenkins, justices. The first circuit court was held in Havana, August 19, 1859. Justice Ransom Balcom presided, and Justices of the session Minor T. Broderick and J. B. Wilkins sat upon the bench with him.

Notwithstanding the long and active opposition to the creation of the county, this agitation was surpassed in extent and acerbity by the dispute between the northern and southern sections of the county after it had been created, as to the location of the county seat. Havana and Watkins were the rival locations for this honor, and the strife between them was incessant for years. The courts from the lowest to the highest were invoked first in the interests of one place and then in the interests of the other. The legislature was importuned year after year, three separate acts being required before the subject was entirely disposed of. By the act organizing the county, Delos DeWolf, Edward Dodd and Vivis Smith were appointed commissioners to locate the site of the county buildings, and Madison Treman, David F. Sears, Roswell Holden, Hiram Chaplan and Guy C. Hinman were appointed building commissioners. It was ordered that all prisoners should be confined in the Chemung county jail until the new jail in Schuyler county should be completed. After investigation and consultation, the locating

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commissioners decided that Havana should be the county seat, and they adopted locations for the court house, the clerk's office and the jail. In spite of opposition on the part of the people of Watkins and the issuing of injunctions, mandamuses and other legal proceedings, the commissioners contracted for the erection of the buildings at a cost of \$19,900.

This did not settle the matter, however, for agitation against the location in Havana continued more strenuously than ever before, until in November, 1854, the supervisors reversed their decision and passed the resolution that "the site for the court house, jail and clerk's office of Schuyler county, selected by the commissioners to determine the same, situated at Genesee and Main streets, in Havana, be changed and removed to the village of Watkins." The board also directed that the county courts should be held in Watkins until the court house should be legally erected. Some of the most important subsequent proceedings in relation to this matter included the voting of money to use under the act for the erection of the county buildings; the failure of the bill in the legislature to legalize the action of the commissioners locating the site at Havana; another vote of the supervisors in April, 1855, to proceed to erect buildings in Watkins; and the designation of Guinnip's hall, in Watkins, as a temporary place for holding the courts.

The question was bandied back and forth between various sessions of the legislature and in and out of the successive boards of supervisors until 1874, before it was finally settled. The buildings erected during this period in Havana and Watkins cost about \$24,000. Final decision after twenty years of strife made Watkins the county seat. The court house there located is a two-story building of brick. One room on the ground floor is set aside for the supervisors, and one room is

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occupied by the surrogate. In the upper story is the court room and jury rooms. The jail is a two-story brick building at the rear of the court house, and connected with the jailer's residence.

County judges and surrogates have been: Simeon L. Rood, 1855-1858; George C. Shearer, 1862; Benjamin W. Woodward, 1866; George G. Freer, 1870; Oliver P. Hurd, 1876; M. J. Sunderlin, 1882; Samuel C. Keeler, 1888.

District attorneys have been: Lewis F. Riggs, 1854; Marcus Lyon, 1855; Daniel Jamison, 1855; Henry C. Van Duzer, 1858; John W. Brown, 1861; Samuel C. Keeler, 1864; Oliver P. Hurd, 1867; William L. Norton, 1870; Charles H. Fletcher, 1873; Charles W. Davis, 1876; W. LeRoy Norton, 1879; Washington Robertson, 1882; Waldo F. Bishop, 1885; George E. Kellogg, 1888; Edwin O. Bolyen, 1890.

### NASSAU COUNTY

The county of Nassau is composed of the towns of Oyster Bay, North Hempstead, and that part of the town of Hempstead not in Queens borough of New York City. The act creating the new county was passed by the legislature on March 24, 1898, and was signed by the governor on April 28, following. It was the immediate outgrowth of the new conditions caused by the creation of Greater New York, and the consolidation of the western towns of Long Island with the metropolis. The new county has the following villages: Hempstead, Glen Cove, Freeport, Rockville Center, Oyster Bay, Hicksville, Lynbrook, Port Washington, Garden City, Sea Cliff, Roslyn, Farmingdale and Manhasset.

The county seat is at Mineola, in the village of Hempstead. At the first election of county officials in November, 1898, the

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following were elected: Robert Seabury, county judge; William H. Wood, sheriff; Thomas Patterson, county clerk, and James P. Nieman, district attorney. Since this first election the following have been successors of several of the originally elected officers: Thomas S. Cheshire, county clerk, and Jerome B. Johnson, sheriff, 1901; Edgar Jackson, county judge, F. E. Gildersleeve, sheriff, and Frank A. Coles, district attorney, in 1905; J. H. Foster, sheriff, in 1908.

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